

Act No. 290  
Public Acts of 1995  
Approved by the Governor  
January 9, 1996  
Filed with the Secretary of State  
January 9, 1996

**STATE OF MICHIGAN**  
**88TH LEGISLATURE**  
**REGULAR SESSION OF 1995**

Introduced by Senators Gougeon, Geake and Cisky

# **ENROLLED SENATE BILL No. 525**

AN ACT to amend the title and sections 100, 110, 114, 116, 124, 126, 135, 137, 138, 139, 141, 142, 152, 153, 156, 157, 158, 159, 161, 162, 202, 204, 206, 208, 209a, 209b, 209d, 210, 212, 216, 218, 219, 220, 222, 224, 226, 226a, 228, 230, 232, 234, 236, 238, 240, 242, 244, 245, 302, 306, 307, 308, 309, 310, 312, 314, 316, 320, 400, 401, 403, 406, 407, 408, 411, 415, 416, 420, 423, 425, 426, 427, 427a, 428, 429, 430, 431, 434, 435, 436, 438, 448, 449, 451, 452, 453, 454, 455, 461, 462, 463, 464, 468, 469, 472, 473, 476, 479, 482, 483, 484, 485, 485a, 490, 498a, 498b, 498c, 498d, 498e, 498f, 498h, 498k, 498l, 498n, 498o, 498p, 500, 502, 503, 505, 508, 509, 510, 511, 512, 515, 516, 517, 518, 519, 520, 521, 522, 525, 527, 528, 531, 532, 536, 537, 540, 541, 600, 602, 607, 612, 620, 623, 628, 637, 642, 700, 702, 704, 706, 707, 708, 710, 712, 714, 715, 716, 718, 722, 723, 723a, 723b, 723c, 724, 726, 728, 730, 732, 734, 736, 740, 742, 744, 748, 750, 752, 754, 800, 802, 804, 806, 808, 810, 812, 814, 818, 820, 822, 824, 828, 830, 832, 834, 836, 838, 946, and 1001b of Act No. 258 of the Public Acts of 1974, entitled as amended "An act to modernize, add to, revise, consolidate, and codify the statutes relating to mental health; to delineate the powers and duties of the department of mental health; to establish county community mental health programs; to delineate state and county financial responsibility for public mental health services; to create certain funds; to establish procedures for the civil admission and discharge of mentally ill persons to and from mental health facilities; to establish procedures for the civil admission and discharge of persons with developmental disabilities to and from facilities; to establish guardianship arrangements for persons with developmental disabilities; to establish certain rights of persons who receive mental health services; to establish financial liability for the receipt of public mental health services; to establish certain miscellaneous provisions relating to mental health; to establish procedures pertaining to persons with mental illness or developmental disabilities who are under criminal sentence, to persons who are mentally incompetent to stand trial, and to persons who have been found not guilty by reason of insanity; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," section 100 as amended by Act No. 124 of the Public Acts of 1990, section 116 as amended by Act No. 29 of the Public Acts of 1990, sections 135, 137, 139, and 141 as amended by Act No. 137 of the Public Acts of 1994, section 153 as added by Act No. 256 of the Public Acts of 1986, sections 156, 157, 158, 159, and 161 as added and section 308 as amended by Act No. 249 of the Public Acts of 1983, section 162 as added by Act No. 124 of the Public Acts of 1990, sections 209a and 415 as amended and sections 498a, 498c, 498d, 498e, 498f, 498h, 498l, 498n, 498o, 498p, and 707 as added by Act No. 186 of the Public Acts of 1984, sections 209b and 209d as added by Act No. 409 of the Public Acts of 1980, sections 212 and 302 as amended and section 219 as added by Act No. 265 of the Public Acts of 1986, section 226 as amended by Act No. 149 of the Public Acts of 1986, sections 226a and 309 as amended by Act No. 107 of the Public Acts of 1984, section 244 as amended and section 245 as added by Act No. 289 of the Public Acts of 1986, section 307 as added by Act No. 253 of the Public Acts of 1993, section 310 as amended by Act No. 423 of the Public Acts of 1980, section 400 as amended by Act No. 297 of the Public Acts of 1986, sections 408, 498b, and 498k as amended by Act No. 155 of the Public Acts of 1988, sections 420, 423, 425, 426, 428, 429, 430, 435, 438, 461, 463, and 485 as amended by Act No. 402 of the Public Acts of 1982, sections 434, 452, 454, and 455 as amended by Act No. 118 of the Public Acts of 1986, section 448 as amended by Act No. 178 of the Public Acts of 1982, sections 468, 469, 472, 482, 483, 484, and 485a as amended by Act No. 117 of the Public Acts of 1986, section 500 as amended by Act No. 76 of the Public Acts of 1987, section 723 as amended by Act No. 32 of the Public Acts of 1988, sections 723a, 723b, and 723c as

added by Act No. 224 of the Public Acts of 1986, section 748 as amended by Act No. 167 of the Public Acts of 1990, section 750 as amended by Act No. 123 of the Public Acts of 1989, section 818 as amended by Act No. 91 of the Public Acts of 1981, section 946 as amended by Act No. 259 of the Public Acts of 1994, and section 1001b as amended by Act No. 252 of the Public Acts of 1993, being sections 330.1100, 330.1110, 330.1114, 330.1116, 330.1124, 330.1126, 330.1135, 330.1137, 330.1138, 330.1139, 330.1141, 330.1142, 330.1152, 330.1153, 330.1156, 330.1157, 330.1158, 330.1159, 330.1161, 330.1162, 330.1202, 330.1204, 330.1206, 330.1208, 330.1209a, 330.1209b, 330.1209d, 330.1210, 330.1212, 330.1216, 330.1218, 330.1219, 330.1220, 330.1222, 330.1224, 330.1226, 330.1226a, 330.1228, 330.1230, 330.1232, 330.1234, 330.1236, 330.1238, 330.1240, 330.1242, 330.1244, 330.1245, 330.1302, 330.1306, 330.1307, 330.1308, 330.1309, 330.1310, 330.1312, 330.1314, 330.1316, 330.1320, 330.1400, 330.1401, 330.1403, 330.1406, 330.1407, 330.1408, 330.1411, 330.1415, 330.1416, 330.1420, 330.1423, 330.1425, 330.1426, 330.1427, 330.1427a, 330.1428, 330.1429, 330.1430, 330.1431, 330.1434, 330.1435, 330.1436, 330.1438, 330.1448, 330.1449, 330.1451, 330.1452, 330.1453, 330.1454, 330.1455, 330.1461, 330.1462, 330.1463, 330.1464, 330.1468, 330.1469, 330.1472, 330.1473, 330.1476, 330.1479, 330.1482, 330.1483, 330.1484, 330.1485, 330.1485a, 330.1490, 330.1498a, 330.1498b, 330.1498c, 330.1498d, 330.1498e, 330.1498f, 330.1498h, 330.1498k, 330.1498l, 330.1498n, 330.1498o, 330.1498p, 330.1500, 330.1502, 330.1503, 330.1505, 330.1508, 330.1509, 330.1510, 330.1511, 330.1512, 330.1515, 330.1516, 330.1517, 330.1518, 330.1519, 330.1520, 330.1521, 330.1522, 330.1525, 330.1527, 330.1528, 330.1531, 330.1532, 330.1536, 330.1537, 330.1540, 330.1541, 330.1600, 330.1602, 330.1607, 330.1612, 330.1620, 330.1623, 330.1628, 330.1637, 330.1642, 330.1700, 330.1702, 330.1704, 330.1706, 330.1707, 330.1708, 330.1710, 330.1712, 330.1714, 330.1715, 330.1716, 330.1718, 330.1722, 330.1723, 330.1723a, 330.1723b, 330.1723c, 330.1724, 330.1726, 330.1728, 330.1730, 330.1732, 330.1734, 330.1736, 330.1740, 330.1742, 330.1744, 330.1748, 330.1750, 330.1752, 330.1754, 330.1800, 330.1802, 330.1804, 330.1806, 330.1808, 330.1810, 330.1812, 330.1814, 330.1818, 330.1820, 330.1822, 330.1824, 330.1828, 330.1830, 330.1832, 330.1834, 330.1836, 330.1838, 330.1946, and 330.2001b of the Michigan Compiled Laws; to add sections 100a, 100b, 100c, 100d, 114a, 143b, 200a, 204a, 205, 207, 227, 231, 232a, 241, 402a, 409, 410, 422, 705, 706a, 711, 713, 717, 719, 720, 749, 753, 755, 756, 757, 758, 813, 817, 819, 901, and 919 and chapter 7a; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Section 1. The title and sections 100, 110, 114, 116, 124, 126, 135, 137, 138, 139, 141, 142, 152, 153, 156, 157, 158, 159, 161, 162, 202, 204, 206, 208, 209a, 209b, 209d, 210, 212, 216, 218, 219, 220, 222, 224, 226, 226a, 228, 230, 232, 234, 236, 238, 240, 242, 244, 245, 302, 306, 307, 308, 309, 310, 312, 314, 316, 320, 400, 401, 403, 406, 407, 408, 411, 415, 416, 420, 423, 425, 426, 427, 427a, 428, 429, 430, 431, 434, 435, 436, 438, 448, 449, 451, 452, 453, 454, 455, 451, 462, 463, 464, 468, 469, 472, 473, 476, 479, 482, 483, 484, 485, 485a, 490, 498a, 498b, 498c, 498d, 498e, 498f, 498h, 498k, 498l, 498n, 498o, 498p, 500, 502, 503, 505, 508, 509, 510, 511, 512, 515, 516, 517, 518, 519, 520, 521, 522, 525, 527, 528, 531, 532, 536, 537, 540, 541, 600, 602, 607, 612, 620, 623, 628, 637, 642, 700, 702, 704, 706, 707, 708, 710, 712, 714, 715, 716, 718, 722, 723, 723a, 723b, 723c, 724, 726, 728, 730, 732, 734, 736, 740, 742, 744, 748, 750, 752, 754, 800, 802, 804, 806, 808, 810, 812, 814, 818, 820, 822, 824, 828, 830, 832, 834, 836, 838, 946, and 1001b of Act No. 258 of the Public Acts of 1974, section 100 as amended by Act No. 124 of the Public Acts of 1996, section 116 as amended by Act No. 29 of the Public Acts of 1990, sections 135, 137, 139, and 141 as amended by Act No. 137 of the Public Acts of 1994, section 153 as added by Act No. 256 of the Public Acts of 1986, sections 156, 157, 158, 159, and 161 as added and section 308 as amended by Act No. 249 of the Public Acts of 1983, section 162 as added by Act No. 124 of the Public Acts of 1990, sections 209a and 415 as amended and sections 498a, 498c, 498d, 498e, 498f, 498h, 498l, 498n, 498o, 498p, and 707 as added by Act No. 186 of the Public Acts of 1984, sections 209b and 209d as added by Act No. 409 of the Public Acts of 1980, sections 212 and 302 as amended and section 219 as added by Act No. 265 of the Public Acts of 1986, section 226 as amended by Act No. 149 of the Public Acts of 1986, sections 226a and 309 as amended by Act No. 107 of the Public Acts of 1984, section 244 as amended and section 245 as added by Act No. 289 of the Public Acts of 1986, section 307 as added by Act No. 253 of the Public Acts of 1993, section 310 as amended by Act No. 423 of the Public Acts of 1980, section 400 as amended by Act No. 297 of the Public Acts of 1986, sections 408, 498b, and 498k as amended by Act No. 155 of the Public Acts of 1988, sections 420, 423, 425, 426, 428, 429, 430, 435, 438, 461, 463, and 485 as amended by Act No. 402 of the Public Acts of 1982, sections 434, 452, 454, and 455 as amended by Act No. 118 of the Public Acts of 1986, section 448 as amended by Act No. 178 of the Public Acts of 1982, sections 468, 469, 472, 482, 483, 484, and 485a as amended by Act No. 117 of the Public Acts of 1986, section 500 as amended by Act No. 76 of the Public Acts of 1987, section 723 as amended by Act No. 32 of the Public Acts of 1988, sections 723a, 723b, and 723c as added by Act No. 224 of the Public Acts of 1986, section 748 as amended by Act No. 167 of the Public Acts of 1990, section 750 as amended by Act No. 123 of the Public Acts of 1989, section 818 as amended by Act No. 91 of the Public Acts of 1981, section 946 as amended by Act No. 259 of the Public Acts of 1994, and section 1001b as amended by Act No. 252 of the Public Acts of 1993, being sections 330.1100, 330.1110, 330.1114, 330.1116, 330.1124, 330.1126, 330.1135, 330.1137, 330.1138, 330.1139, 330.1141, 330.1142, 330.1152, 330.1153, 330.1156, 330.1157, 330.1158, 330.1159, 330.1161, 330.1162, 330.1202, 330.1204, 330.1206, 330.1208, 330.1209a, 330.1209b, 330.1209d, 330.1210, 330.1212, 330.1216, 330.1218, 330.1219, 330.1220, 330.1222, 330.1224, 330.1226, 330.1226a, 330.1228, 330.1230, 330.1232, 330.1234, 330.1236, 330.1238, 330.1240, 330.1242, 330.1244, 330.1245, 330.1302, 330.1306, 330.1307, 330.1308, 330.1309, 330.1310, 330.1312, 330.1314, 330.1316, 330.1320, 330.1400, 330.1401, 330.1403, 330.1406, 330.1407, 330.1408, 330.1411, 330.1415, 330.1416, 330.1420, 330.1423, 330.1425, 330.1426, 330.1427, 330.1427a, 330.1428, 330.1429, 330.1430, 330.1431, 330.1434, 330.1435, 330.1436, 330.1438, 330.1448, 330.1449, 330.1451, 330.1452, 330.1453, 330.1454, 330.1455, 330.1461,

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## TITLE

An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts.

Sec. 100. The definitions in sections 100a to 100d apply to this act unless the context requires otherwise. Other definitions applicable to specific chapters are found in those chapters.

Sec. 100a. (1) "Abilities" means the qualities, skills, and competencies of an individual that reflect the individual's talents and acquired proficiencies.

(2) "Abuse" means nonaccidental physical or emotional harm to a recipient, or sexual contact with or sexual penetration of a recipient as those terms are defined in section 520a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.520a of the Michigan Compiled Laws, that is committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital or an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital.

(3) "Adaptive skills" means skills in 1 or more of the following areas:

- (a) Communication.
- (b) Self-care.
- (c) Home living.
- (d) Social skills.
- (e) Community use.
- (f) Self-direction.
- (g) Health and safety.
- (h) Functional academics.
- (i) Leisure.
- (j) Work.

(4) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws.

(5) "Applicant" means an individual or his or her legal representative who makes a request for mental health services.

(6) "Board" means the governing body of a community mental health services program.

(7) "Board of commissioners" means a county board of commissioners.

(8) "Center" means a facility operated by the department to admit individuals with developmental disabilities and provide habilitation and treatment services.

(9) "Certification" means formal approval of a program by the department in accordance with standards developed or approved by the department.

(10) "Child and adolescent psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in child and adolescent psychiatry approved by the accreditation council for graduate medical education or the American osteopathic association, or who has completed 12 months of child and adolescent psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract as a child and adolescent psychiatrist with the department or a community mental health services program on the effective date of the amendatory act that added this subdivision who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance.

(c) A psychiatrist who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance who is approved by the director.

(11) "Children's diagnostic and treatment service" means a program operated by or under contract with a community mental health services program, which provides examination, evaluation, and referrals for minors, including emergency referrals, which provides or facilitates treatment for minors, and which has been certified by the department.

(12) "Community mental health authority" means a separate legal public governmental entity created under section 205 to operate as a community mental health services program.

(13) "Community mental health organization" means a community mental health services program that is organized under the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.501 to 124.512 of the Michigan Compiled Laws.

(14) "Community mental health services program" means a program operated under chapter 2 as a county community mental health agency, a community mental health authority, or a community mental health organization.

(15) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, or a recipient's legal representative with authority to execute a consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

(16) "County community mental health agency" means an official county or multicounty agency created under section 210 that operates as a community mental health services program and that has not elected to become a community mental health authority under section 205 or a community mental health organization under Act No. 7 of the Public Acts of the Extra Session of 1967.

(17) "Dependent living setting" means all of the following:

(a) An adult foster care facility.

(b) A nursing home licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.

(c) A home for the aged licensed under article 17 of Act No. 368 of the Public Acts of 1978.

(18) "Department" means the department of mental health.

(19) "Developmental disability" means either of the following:

(a) If applied to an individual older than 5 years, a severe, chronic condition that meets all of the following requirements:

(i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(ii) Is manifested before the individual is 22 years old.

(iii) Is likely to continue indefinitely.

(iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

(b) If applied to a minor from birth to age 5, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(20) "Director" means the director of the department of mental health or his or her designee.

(21) "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.

(22) "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:

(a) Severely mentally impaired.

(b) Severely multiply impaired.

(c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under subsection (1) of R 340.1758 of the Michigan administrative code or in a program designed for the severely mentally impaired or severely multiply impaired.

(23) "Emergency situation" means a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a child is experiencing a serious emotional disturbance, and 1 of the following applies:

(a) The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.

(b) The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.

(c) The individual's judgment is so impaired that he or she is unable to understand the need for treatment and, in the opinion of the mental health professional, his or her continued behavior as a result of the mental illness, developmental disability, or emotional disturbance can reasonably be expected in the near future to result in physical harm to the individual or to another individual.

(24) "Executive director" means an individual appointed under section 226 to direct a community mental health services program or his or her designee.

Sec. 100b. (1) "Facility" means a residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability that is either a state facility or a licensed facility.

(2) "Family" as used in sections 156 to 161 means an eligible minor and his or her parent or legal guardian.

(3) "Family member" means a parent, stepparent, spouse, sibling, child, or grandparent of a primary consumer, or an individual upon whom a primary consumer is dependent for at least 50% of his or her financial support.

(4) "Federal funds" means funds received from the federal government under a categorical grant or similar program and does not include federal funds received under a revenue sharing arrangement.

(5) "Functional impairment" means both of the following:

(a) With regard to serious emotional disturbance, substantial interference with or limitation of a minor's achievement or maintenance of 1 or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills.

(b) With regard to serious mental illness, substantial interference or limitation of role functioning in 1 or more major life activities including basic living skills such as eating, bathing, and dressing; instrumental living skills such as maintaining a household, managing money, getting around the community, and taking prescribed medication; and functioning in social, vocational, and educational contexts.

(6) "Guardian" means a person appointed by the court to exercise specific powers over an individual who is a minor, legally incapacitated, or developmentally disabled.

(7) "Hospital" or "psychiatric hospital" means an inpatient program operated by the department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under section 137.

(8) "Hospital director" means the chief administrative officer of a hospital or his or her designee.

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

(10) "Individual plan of services" or "plan of services" means a written individualized plan of services developed with a recipient as required by section 712.

(11) "Licensed facility" means a facility licensed by the department under section 137 or an adult foster care facility.

(12) "Licensed psychologist" means a doctoral level psychologist licensed under section 18223(1) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18223 of the Michigan Compiled Laws.

(13) "Medical director" means a psychiatrist appointed under section 231 to advise the executive director of a community mental health services program.

(14) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(a) A physician who is licensed to practice medicine or osteopathic medicine and surgery in this state under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

(b) A psychologist licensed to practice in this state under article 15 of the public health code, Act No. 368 of the Public Acts of 1978.

(c) A registered professional nurse licensed to practice in this state under article 15 of the public health code, Act No. 368 of the Public Acts of 1978.

(d) A certified social worker, a social worker, or a social worker technician registered in this state under article 16 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.1601 to 339.1610 of the Michigan Compiled Laws.

(e) A licensed professional counselor licensed to practice in this state under article 15 of the public health code, Act No. 368 of the Public Acts of 1978.

(f) A marriage and family therapist licensed under article 15 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.1501 to 339.1511 of the Michigan Compiled Laws.

(15) "Mental retardation" means a condition manifesting before the age of 18 years that is characterized by significantly subaverage intellectual functioning and related limitations in 2 or more adaptive skills and that is diagnosed based on the following assumptions:

(a) Valid assessment considers cultural and linguistic diversity, as well as differences in communication and behavioral factors.

(b) The existence of limitation in adaptive skills occurs within the context of community environments typical of the individual's age peers and is indexed to the individual's particular needs for support.

(c) Specific adaptive skill limitations often coexist with strengths in other adaptive skills or other personal capabilities.

(d) With appropriate supports over a sustained period, the life functioning of the individual with mental retardation will generally improve.

(16) "Minor" means an individual under the age of 18 years.

(17) "Multicultural services" means specialized mental health services for multicultural populations such as African-Americans, Hispanics, Native Americans, Asian and Pacific Islanders, and Arab/Chaldean-Americans.

(18) "Neglect" means an act or failure to act committed by an employee or volunteer of the department, a community mental health services program, or a licensed hospital; a service provider under contract with the department, community mental health services program, or licensed hospital; or an employee or volunteer of a service provider under contract with the department, community mental health services program, or licensed hospital, that denies a recipient the standard of care or treatment to which he or she is entitled under this act.

Sec. 100c. (1) "Peace officer" means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state. For the purposes of sections 408 and 427, peace officer also includes an officer of the United States secret service with the officer's consent and a police officer of the veterans' administration medical center reservation.

(2) "Peer review" means a process, including the review process required under section 143a, in which mental health professionals of a state facility, licensed hospital, or community mental health services program evaluate the clinical competence of staff and the quality and appropriateness of care provided to recipients. These evaluations are confidential in accordance with section 748(9) and are based on criteria established by the facility or community mental health services program itself, the accepted standards of the mental health professions, and the departments of mental health and public health.

(3) "Person requiring treatment" means an individual who meets the criteria described in section 401.

(4) "Physician" means an individual licensed by the state to engage in the practice of medicine or osteopathic medicine and surgery under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

(5) "Primary consumer" means an individual who has received or is receiving services from the department or a community mental health services program or services from the private sector equivalent to those offered by the department or a community mental health services program.

(6) "Priority" means preference for and dedication of a major proportion of resources to specified populations or services. Priority does not mean serving or funding the specified populations or services to the exclusion of other populations or services.

(7) "Protective custody" means the temporary custody of an individual by a peace officer with or without the individual's consent for the purpose of protecting that individual's health and safety, or the health and safety of the public, and for the purpose of transporting the individual under section 408 or 427 if the individual appears, in the judgment of the peace officer, to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and is not to be construed as an arrest.

(8) "Psychiatric partial hospitalization program" means a nonresidential treatment program that provides psychiatric, psychological, social, occupational, nursing, music therapy, and therapeutic recreational services under the supervision of a physician to adults diagnosed as having serious mental illness or minors diagnosed as having serious emotional disturbance who do not require 24-hour continuous mental health care, and that is affiliated with a psychiatric hospital or psychiatric unit to which clients may be transferred if they need inpatient psychiatric care.

(9) "Psychiatric unit" means a unit of a general hospital, which provides inpatient services for individuals with serious mental illness or serious emotional disturbance. As used in this subsection, "general hospital" means a hospital as defined in section 20106 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws.

(10) "Psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in psychiatry approved by the accreditation council for graduate medical education or the American Osteopathic Association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract with the department or a community mental health services program on the effective date of the amendatory act that added this section.

(c) A physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the director.

(11) "Psychologist" means an individual licensed to engage in the practice of psychology under article 15 of Act No. 368 of the Public Acts of 1978, who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability.

(12) "Recipient" means an individual who receives mental health services from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program.

(13) "Recipient rights advisory committee" means a committee of a community mental health services program board appointed under section 757 or a recipient rights advisory committee appointed by a licensed hospital under section 758.

(14) "Resident" means an individual who receives services in a facility.

(15) "Responsible mental health agency" means the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

(16) "Rule" means a rule promulgated under the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Sec. 100d. (1) "Service" means a mental health service.

(2) "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits the minor's role or functioning in family, school, or community activities. The following disorders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

(a) A substance abuse disorder.

(b) A developmental disorder.

(c) "V" codes in the diagnostic and statistical manual of mental disorders.

(3) "Serious mental illness" means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association and approved by the department and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance but does not include any other dementia unless the dementia occurs in

conjunction with another diagnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:

- (a) A substance abuse disorder.
- (b) A developmental disorder.
- (c) A "V" code in the diagnostic and statistical manual of mental disorders.

(4) "Special compensation" means payment to an adult foster care facility to ensure the provision of a specialized program in addition to the basic payment for adult foster care. Special compensation does not include payment received directly from the medicaid program for personal care services for a resident, or payment received under the supplemental security income program.

(5) "Specialized program" means a program of services, supports, or treatment that are provided in an adult foster care facility to meet the unique programmatic needs of individuals with serious mental illness or developmental disability as set forth in the resident's individual plan of services and for which the adult foster care facility receives special compensation.

(6) "Specialized residential service" means a combination of residential care and mental health services that are expressly designed to provide rehabilitation and therapy to a recipient, that are provided in the residence of the recipient, and that are part of a comprehensive individual plan of services.

(7) "State facility" means a center or a hospital operated by the department.

(8) "State recipient rights advisory committee" means a committee appointed by the director under section 756 to advise the director and the director of the department's office of recipient rights.

(9) "Substance abuse" means that term as defined in section 6107 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.6107 of the Michigan Compiled Laws.

(10) "Supplemental security income" means the program authorized under title XVI of the social security act, chapter 531, 49 Stat. 620, U.S.C. 1381 to 1382j and 1383 to 1383d.

(11) "Transition services" means a coordinated set of activities for a special education student designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, or community participation.

(12) "Treatment" means care, diagnostic, and therapeutic services, including the administration of drugs, and any other service for the treatment of an individual's serious mental illness or serious emotional disturbance.

(13) "Treatment position" means a unit of measure of the client capacity of a psychiatric partial hospitalization program. Each treatment position represents a minimum of 6 hours per day and 5 days per calendar week.

(14) "Urgent situation" means a situation in which an individual is determined to be at risk of experiencing an emergency situation in the near future if he or she does not receive care, treatment, or support services.

(15) "Wraparound services" means an individually designed set of services provided to minors with serious emotional disturbance or serious mental illness and their families that includes treatment services and personal support services or any other supports necessary to maintain the child in the family home. Wraparound services are to be developed through an interagency collaborative approach and a minor's parent or guardian and a minor age 14 or older are to participate in planning the services.

Sec. 110. (1) A citizens mental health advisory council is established to advise and assist the director in developing and executing mental health policies and programs.

(2) The council shall consist of 12 members who shall be appointed by the governor. The term of office of each member shall be 2 years. A member shall be paid a reasonable per diem and reimbursed for necessary travel expenses for each meeting attended. A meeting shall be held at least once every 3 months, upon call of the director. The council shall annually, by majority vote, choose a chairperson from among its own membership.

(3) The composition of the citizens mental health advisory council shall be representative of primary consumers, family members, agencies and professionals having a working involvement with mental health services, and the general public. At least 4 members of the council shall be primary consumers or family members, and at least 2 of those 4 shall be primary consumers.

Sec. 114. (1) Subject to section 114a, as provided in section 9 of Act No. 380 of the Public Acts of 1965, being section 16.109 of the Michigan Compiled Laws, the director may promulgate rules as necessary to carry out the functions vested in the department.

(2) All modifications to rules that are needed to comply with the amendatory act that added this subsection shall be submitted to public hearing within 2 years after the effective date of that amendatory act.



Sec. 114a. If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, any provision of this act that requires or permits the department to promulgate rules does not apply.

Sec. 116. (1) Consistent with section 51 of article IV of the state constitution of 1963, which declares that the health of the people of the state is a matter of primary public concern, and as required by section 8 of article VIII of the state constitution of 1963, which declares that services for the care, treatment, education, or rehabilitation of those who are seriously mentally handicapped shall always be fostered and supported, the department shall continually and diligently endeavor to ensure that adequate and appropriate mental health services are available to all citizens throughout the state. To this end, the department shall have the general powers and duties described in this section.

(2) The department shall do all of the following:

(a) Direct services to individuals who have a serious mental illness, developmental disability, or serious emotional disturbance. The department shall give priority to the following services:

(i) Services for individuals with the most severe forms of serious mental illness, serious emotional disturbance, or developmental disability.

(ii) Services for individuals with serious mental illness, serious emotional disturbance, or developmental disability who are in urgent or emergency situations.

(b) Administer the provisions of chapter 2 so as to promote and maintain an adequate and appropriate system of community mental health services programs throughout the state. In the administration of chapter 2, it shall be the objective of the department to shift primary responsibility for the direct delivery of public mental health services from the state to a community mental health services program whenever the community mental health services program has demonstrated a willingness and capacity to provide an adequate and appropriate system of mental health services for the citizens of that service area.

(c) Engage in planning for the purpose of identifying, assessing, and enunciating the mental health needs of the state.

(d) Submit to the members of the house and senate standing committees and appropriation subcommittees with legislative oversight of mental health matters an annual report summarizing its assessment of the mental health needs of the state and incorporating information received from community mental health services programs under section 226. The report shall include an estimate of the cost of meeting all identified needs. Additional information shall be made available to the legislature upon request.

(e) Endeavor to develop and establish arrangements and procedures for the effective coordination and integration of all public mental health services, and for effective cooperation between public and nonpublic services, for the purpose of providing a unified system of statewide mental health care.

(f) Review and evaluate the relevance, quality, effectiveness, and efficiency of mental health services being provided by the department and assure the review and evaluation of mental health services provided by community mental health services programs. The department shall establish and implement a structured system to provide data necessary for the reviews and evaluations.

(g) Implement those provisions of law under which it is responsible for the licensing or certification of mental health facilities or services.

(h) Establish standards of training and experience for executive directors of community mental health services programs.

(i) Support research activities.

(j) Support evaluation and quality improvement activities.

(k) Support training, consultation, and technical assistance regarding mental health programs and services and appropriate prevention and mental health promotion activities, including those that are culturally sensitive, to employees of the department, community mental health services programs, and other nonprofit agencies providing mental health services under contract with community mental health services programs.

(l) Support multicultural services.

(3) The department may do all of the following:

(a) Direct services to individuals who have mental disorders that meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental health disorders published by the American psychiatric association and approved by the department and to the prevention of mental disability and the promotion of mental health. Resources that have been specifically appropriated for services to individuals with dementia, alcoholism, or substance abuse, or for the prevention of mental disability and the promotion of mental health shall be utilized for those specific purposes.

(b) Provide, on a residential or nonresidential basis, any type of patient or client service including but not limited to prevention, diagnosis, treatment, care, education, training, and rehabilitation.

(c) Operate mental health programs or facilities directly or through contractual arrangement.

(d) Institute pilot projects considered appropriate by the director to test new models and concepts in service delivery or mental health administration. Pilot projects may include, but need not be limited to, both of the following:

(i) Issuance of a voucher to a recipient of public mental health services in accordance with the recipient's individual plan of services and guidelines developed by the department.

(ii) Establishment of revolving loans to assist recipients of public mental health services to acquire or maintain affordable housing. Funding under this subparagraph shall only be provided through an agreement with a nonprofit fiduciary in accordance with guidelines and procedures developed by the department related to the use, issuance, and accountability of revolving loans used for recipient housing.

(e) Enter into an agreement, contract, or arrangement with any individual or public or nonpublic entity that is necessary or appropriate to fulfill those duties or exercise those powers that have by statute been given to the department.

(f) Accept gifts, grants, bequests, and other donations for use in performing its functions. Any money or property accepted shall be used as directed by its donor and in accordance with law and the rules and procedures of the department.

(g) The department has any other power necessary or appropriate to fulfill those duties and exercise those powers that have been given to the department by law and that are not otherwise prohibited by law.

Sec. 124. (1) The department shall establish waiting lists for admissions to state operated programs. Waiting lists shall be by diagnostic groups or program categories, age, and gender, and shall specify the length of time each individual has been on the waiting list from the date of the initial request for services.

(2) The department shall require that community mental health services programs maintain waiting lists if all service needs are not met, and that the waiting lists include data by type of services, diagnostic groups or program categories, age, and gender, and that they specify the length of time each individual has been on the waiting list from the date of the initial request for services. The order of priority on the waiting lists shall be based on severity and urgency of need. Individuals determined to be of equal severity and urgency of need shall be served in the order in which they applied for services.

Sec. 126. The department shall endeavor to ensure that no individual will be admitted to or provided services by a facility of the department or a facility of a community mental health services program unless the facility can provide treatment or services appropriate to the individual's condition and needs. The department shall also endeavor to ensure that an individual's course of treatment will be completed in the shortest practicable time.

Sec. 135. (1) Subject to section 114a, the director, by rule, shall set standards that assure the provision of a quality improvement plan, utilization review, and the appropriate training and education of staff and that require documented policies and procedures for the administration of the services that are offered by a psychiatric partial hospitalization program.

(2) Subject to section 114a, the director shall promulgate rules to define all of the following:

(a) Psychiatric hospitals and psychiatric hospital services to clearly differentiate between the active intensive care expected in psychiatric hospitals or psychiatric units and that care which is characteristically expected in general hospitals, long-term care facilities, or residential facilities.

(b) Psychiatric partial hospitalization program to clearly differentiate between the active intensive care expected in a psychiatric partial hospitalization program and that care which is characteristically provided in a psychiatric outpatient program.

(c) The relationship between a partial hospitalization program and its affiliated inpatient hospital or unit.

(3) Sections 134 to 150 do not cover adult foster care facilities or child care organizations licensed under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

Sec. 137. (1) A person shall not construct, establish, or maintain a psychiatric hospital, psychiatric unit, or psychiatric partial hospitalization program or use the terms psychiatric hospital, psychiatric unit, or psychiatric partial hospitalization program, without first obtaining a license. The director shall require an applicant or a licensee to disclose the names, addresses, and official positions of all persons who have an ownership interest in a psychiatric hospital, psychiatric unit, or psychiatric partial hospitalization program. If the psychiatric hospital, psychiatric unit, or psychiatric partial hospitalization program is located on or in real estate which is leased, the applicant or licensee shall disclose the name of the lessor and any direct or indirect interest that the applicant or licensee has in the lease other than as lessee. A nontransferable license shall be granted for 2 years after the date of issuance, unless otherwise

provided in sections 134 to 150. The director may issue a provisional license for 1 year to provide a licensee or applicant time to undertake remedial action to correct programmatic or physical plant deficiencies. A provisional license may be renewed for no longer than 1 additional year. A violation of this section is a misdemeanor and shall be punishable by a fine of not more than \$1,000.00 for each violation.

(2) Biennial licensure of psychiatric hospitals, psychiatric units, and psychiatric partial hospitalization programs shall be implemented within 1 year after the effective date of the amendatory act that added sections 100a to 100d. License fees shall be prorated according to the period of time that the license will be in force.

Sec. 138. Before the issuance of an original or biennial license, a psychiatric hospital, psychiatric unit, or psychiatric partial hospitalization program shall be inspected by the state fire marshal, or his or her designated representative. A license shall not be issued until the state fire marshal approves the hospital or unit.

Sec. 139. (1) An applicant for a license under this act shall submit to the department with the application form a license fee of \$600.00 plus \$7.50 per patient bed or treatment position. The total license fee shall not exceed \$5,000.00.

(2) The license fee for a provisional license is the same as the fee for a license. When the requirements for licensure are met, the provisional license shall be replaced by a license without an additional fee for the balance of the 2-year period.

(3) An applicant for a construction permit shall submit to the department with the application form a permit fee of \$300.00.

(4) If an application for a license or permit is denied, or if a license or permit is revoked before its expiration date, the fees paid to the department shall not be refunded.

Sec. 141. A licensee shall maintain a complete record for each patient. The record shall contain at a minimum a written assessment and individual plan of services for the patient, a statement of the purpose of hospitalization or treatment, a description of any tests and examinations performed, and a description of any observations made and treatments provided.

Sec. 142. The governing body of a facility licensed under sections 134 through 150 shall certify to the department of mental health that its policies, procedures, and practices are consistent with the Americans with disabilities act of 1990, Public Law 101-336, 104 Stat. 327, the rehabilitation act of 1973, Public Law 93-112, 87 Stat. 355, the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws, and the Michigan handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of the Michigan Compiled Laws. The governing body shall direct the administrator of the facility to take such action as is necessary to assure that the facility adheres to all of the nondiscriminatory laws described in this section.

Sec. 143b. (1) A licensee, a community mental health services program, or a person acting on behalf of or for the benefit of a licensee or community mental health services program shall not pay or give or offer to pay or give any money or other consideration or thing of value, directly or indirectly, to a person in return for a referral of a patient.

(2) A licensee or community mental health services program that violates this section, or on whose behalf or for whose benefit a person violates this section, shall for the first violation be subject to an administrative fine equal to 3 times the amount paid for the referral. A licensee that fails to pay the administrative fine to the department or that violates or on whose behalf or for whose benefit a person violates this section a second or subsequent time shall have its license suspended for at least 1 month under section 144. A community mental health services program that fails to pay the administrative fine to the department or that violates or on whose behalf or for whose benefit a person violates this section a second or subsequent time is subject to an administrative fine equal to 6 times the amount paid for the referral and to an immediate certification review by the department.

Sec. 152. The director, after notice to the operator or owner of an adult foster care facility may suspend, deny, revoke, or cancel a contract, agreement, or arrangement entered into under section 116(3)(e) if he or she finds that there has been a substantial failure to comply with the requirements as set forth in the contract, agreement, or arrangement. The notice shall be by certified mail or personal service, setting forth the particular reasons for the proposed action and fixing a date, not less than 30 days from the date of service, on which the operator or owner shall be afforded a hearing before the director or his or her designee. The contract, agreement, or arrangement shall not be suspended, denied, revoked, or canceled until the director notifies the operator or owner in writing of his or her findings of fact and conclusions following such hearing.

Sec. 153. (1) Subject to section 114a, the department shall promulgate rules for the placement of adults who have serious mental illness or developmental disability into community based dependent living settings by department agencies, community mental health services programs, and by agencies under contract to the department or to a

community mental health services program. The rules shall include, but not be limited to, the criteria to be used to determine a suitable placement and the specific agencies responsible for making decisions regarding a placement.

(2) Subject to section 114a, the department shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to individuals with serious mental illness or developmental disability. The rules shall provide for an administrative appeal to the department of a denial or limitation of the terms of certification under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(3) Upon receipt of a request from an adult foster care facility for certification of a specialized program, the department shall inspect the facility to determine whether the proposed specialized program conforms with the requirements of this section and rules promulgated under this section. The department shall provide the department of social services with an inspection report and a certification, denial of certification, revocation, or certification with limited terms for the proposed specialized program. The department shall reinspect a certified specialized program not less than once biennially and notify the department of social services in the same manner as for the initial certification. In carrying out this subsection, the department may contract with a community mental health services program or any other agency.

(4) This section does not prevent licensure of an adult foster care facility or the placement of individuals with serious mental illness or developmental disability into community based dependent living settings pending the promulgation by the department of rules under subsection (1) or (2).

Sec. 156. The director of the department shall establish a family support subsidy program. The purpose of the family support subsidy program is to keep families together and to reduce capacity in state facilities by defraying some of the special costs of caring for eligible minors, thus facilitating the return of eligible minors from out-of-home placements to their family homes, and preventing or delaying the out-of-home placement of eligible minors who reside in their family homes.

Sec. 157. (1) Subject to section 114a, the department shall promulgate rules to implement sections 156 to 161. The rules shall include an adoption by reference of the standards and criteria used by the department of education in the identification of eligible minors. The department shall also consult with the department of education on the implementation and coordination of the family support subsidy program.

(2) The department shall create application forms and shall make the forms available to community mental health services programs for determining the eligibility of applicants. The forms shall require at least the following information, which constitutes the eligibility criteria for receipt of a family subsidy:

(a) A statement that the family resides in this state.

(b) Verification that the eligible minor meets the definition in section 100a.

(c) A statement that the eligible minor resides, or is expected to reside, with his or her parent or legal guardian or, on a temporary basis, with another relative.

(d) A statement that the family is not receiving a medical subsidy for the eligible minor under section 115h of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.115h of the Michigan Compiled Laws.

(e) Verification that the taxable income for the family for the year immediately preceding the date of application did not exceed \$60,000.00, unless it can be verified that the taxable income for the family for the year in which the application is made will be less than \$60,000.00.

Sec. 158. (1) If an application for a family support subsidy is approved by the community mental health services program, all of the following apply:

(a) A family support subsidy shall be paid to the parent or legal guardian on behalf of an eligible minor, and shall be considered a benefit to the eligible minor. An approved subsidy shall be payable as of the first of the next month after the community mental health services program receives the written application.

(b) A family support subsidy shall be used to meet the special needs of the family. Except as otherwise provided in this chapter, this subsidy is intended to complement but not supplant public assistance or social service benefits based on economic need, available through governmental programs.

(c) Except as provided in section 160(2), a family support subsidy shall be in an amount equivalent to the monthly maximum supplemental security income payment available in Michigan for an adult recipient living in the household of another, as formulated under federal regulations as of July 1, 1984. Increases to this rate shall be determined annually by legislative appropriation. In addition, the parent or legal guardian of an eligible minor who is in an out-of-home placement at the time of application may receive a 1-time, lump-sum advance payment of twice the monthly family subsidy amount for the purpose of meeting the special needs of the family to prepare for in-home care.

(2) A community mental health services program may contract with the department for services that provide for the payment of family support subsidies through the department.

(3) The parent or legal guardian who receives a family support subsidy shall report, in writing, at least the following information to the community mental health services program:

(a) Not less than annually, a statement that the family support subsidy was used to meet the special needs of the family.

(b) Immediately, the occurrence of any event listed in section 159.

(c) Immediately, if the parent or legal guardian requests termination of the family support subsidy.

Sec. 159. (1) The family support subsidy shall terminate if 1 or more of the following occur:

(a) The eligible minor dies.

(b) The family no longer meets the eligibility criteria in section 157(2).

(c) The eligible minor attains the age of 18 years.

(2) The family support subsidy may be terminated by a community mental health services program if a report required by section 158(3) is not timely made or a report required by section 158(3)(a) is false.

(3) If an application for a family support subsidy is denied or a family support subsidy is terminated by a community mental health services program, the parent or legal guardian of the affected eligible minor may demand, in writing, a hearing by the community mental health services program. The hearing shall be conducted in the same manner as provided for contested case hearings under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

Sec. 161. The department, in conjunction with community mental health services programs, shall conduct annually and forward to the governor and the house and senate appropriations committees, and the senate and house committees with legislative oversight of social services and mental health an evaluation of the family support subsidy program that shall include, but not be limited to, all of the following:

(a) The impact of the family support subsidy program upon children covered by this act in facilities and residential care programs including, to the extent possible, sample case reviews of families who choose not to participate.

(b) Case reviews of families who voluntarily terminate participation in the family support subsidy program for any reason, particularly when the eligible minor is placed out of the family home, including the involvement of the department and community mental health services programs in offering suitable alternatives.

(c) Sample assessments of families receiving family support subsidy payments including adequacy of subsidy and need for services not available.

(d) The efforts to encourage program participation of eligible families.

(e) The geographic distribution of families receiving subsidy payments and, to the extent possible, eligible minors presumed to be eligible for family support subsidy payments.

(f) Programmatic and legislative recommendations to further assist families in providing care for eligible minors.

(g) Problems that arise in identifying eligible minors through diagnostic evaluations performed under rules promulgated by the department of education.

(h) The number of beds reduced in state facilities and foster care facilities serving severely mentally, multiply, and autistic impaired children when the children return home to their natural families as a result of the subsidy program.

(i) Caseload figures by eligibility category as defined in section 100a(22).

Sec. 162. The office of multicultural services is created within the department. The office shall be headed by a director.

Sec. 200a. As used in this chapter, "charter county" means a home rule county created under Act No. 293 of the Public Acts of 1966, being sections 45.501 to 45.525 of the Michigan Compiled Laws.

Sec. 202. The state shall financially support, in accordance with chapter 3, community mental health services programs that have been established and that are administered pursuant to the provisions of this chapter.

Sec. 204. (1) A community mental health services program established under this chapter shall be a county community mental health agency, a community mental health organization, or a community mental health authority. A county community mental health agency is an official county agency. A community mental health organization or a community mental health authority is a public governmental entity separate from the county or counties that establish it.

(2) Procedures and policies for a community mental health organization or a community mental health authority shall be set by the board of the community mental health services program. Procedures and policies for a county community mental health agency shall be set by the board of commissioners or boards of commissioners as prescribed in this subsection. If a county community mental health services agency represents a single county, the county's board of

commissioners shall determine the procedures and policies that shall be applicable to the agency. If a county community mental health services agency represents 2 or more counties, the boards of commissioners of the represented counties shall by agreement determine the procedures and policies that shall be applicable to the agency. In a charter county with an elected county executive, the county executive shall determine the procedures and policies that shall be applicable to the agency.

(3) The procedures and policies for multicounty community mental health services programs shall not take effect until at least 3 public hearings on the proposed procedures and policies have been held.

Sec. 204a. Two or more counties may organize and operate a community mental health services program by creating a community mental health organization under the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being sections 124.501 to 124.512 of the Michigan Compiled Laws.

Sec. 205. (1) A county community mental health agency or a community mental health organization that is certified by the department under section 232a may become a community mental health authority as provided in this section through an enabling resolution adopted by the board of commissioners of each creating county after at least 3 public hearings held in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. The resolution is considered adopted if it is approved by a majority of the commissioners elected and serving in each county creating the authority. The enabling resolution is not effective until it has been filed with the secretary of state and with the county clerk of each county creating the authority. If any provision of the enabling resolution conflicts with this act, this act supersedes the conflicting provision.

(2) All of the following shall be stated in the enabling resolution:

(a) The purpose and the power to be exercised by the community mental health authority shall be to comply with and carry out the provisions of this act.

(b) The duration of the existence of the community mental health authority and the method by which the community mental health authority may be dissolved or terminated by itself or by the county board or boards of commissioners. These provisions shall comply with section 220.

(c) The manner in which any net financial assets originally made available to the authority by the participating county or counties will be returned or distributed if the authority is dissolved or terminated. All other remaining assets net of liabilities shall be transferred to the community mental health services program or programs that replace the authority.

(d) The liability of the community mental health authority for costs associated with real or personal property purchased or leased by the county for use by the community mental health services program to the extent necessary to discharge the financial liability if desired by the county or counties.

(e) The manner of employing, compensating, transferring, or discharging necessary personnel subject to the provisions of applicable civil service and merit systems, and the following restrictions:

(i) Employees of a community mental health authority are public employees. A community mental health authority and its employees are subject to Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.217 of the Michigan Compiled Laws.

(ii) Upon the creation of a community mental health authority, the employees of the former community mental health services program shall be transferred to the new authority and appointed as employees subject to all rights and benefits for 1 year. Such employees of the new community mental health authority shall not be placed in a worse position by reason of the transfer for a period of 1 year with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

(iii) If the former county community mental health agency or community mental health organization was the designated employer or participated in the development of a collective bargaining agreement, the newly established community mental health authority shall assume and be bound by the existing collective bargaining agreement. The formation of a community mental health authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. For purposes of this provision, participation in the development of a collective bargaining agreement means that a representative of the community mental health agency or organization actively participated in bargaining sessions with the employer representative and union or was consulted with during the bargaining process.

(f) Any other matter consistent with this act that is necessary to assure operation of the community mental health authority as agreed upon by the creating county or counties.

(3) If a county community mental health agency or a community mental health organization becomes a community mental health authority pursuant to this section, both of the following apply:

(a) All assets, debts, and obligations of the county community mental health agency or community mental health organization, including but not limited to equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the community mental health authority.

(b) All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to county community mental health agencies or community mental health organizations and their board members, officers, and administrators, and county elected officials and employees of county government are retained by the authority and the board members, officers, agents, and employees of an authority created under this section. The privileges, immunities, and exemptions granted under this subdivision do not include the immunity granted to a county under subsection (6).

(4) In addition to other powers of a community mental health services program as set forth in this act, a community mental health authority has all of the following powers, whether or not they are specified in the enabling resolution:

(a) To fix and collect charges, rates, rents, fees, or other charges and to collect interest.

(b) To make purchases and contracts.

(c) To transfer, divide, or distribute assets, liabilities, or contingent liabilities, unless the community mental health authority is a single-county community mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.

(d) To accept gifts, grants, or bequests and determine the manner in which those gifts, grants, or bequests may be used consistent with the donor's request.

(e) To acquire, own, operate, maintain, lease, or sell real or personal property. Before taking official action to sell residential property, however, the authority shall do all of the following:

(i) Implement a plan for alternative housing arrangements for recipients residing on the property.

(ii) Provide the recipients residing on the property or their legal guardians, if any, an opportunity to offer their comments and concerns regarding the sale and planned alternatives.

(iii) Respond to those comments and concerns in writing.

(f) To do the following in its own name:

(i) Enter into contracts and agreements.

(ii) Employ staff.

(iii) Acquire, construct, manage, maintain, or operate buildings or improvements.

(iv) Acquire, own, operate, maintain, lease, or dispose of real or personal property, unless the community mental health authority is a single-county mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.

(v) Incur debts, liabilities, or obligations that do not constitute the debts, liabilities, or obligations of the creating county or counties.

(vi) Commence litigation and defend itself in litigation.

(g) To invest funds in accordance with statutes regarding investments.

(h) To set up reserve accounts, utilizing state funds in the same proportion that state funds relate to all revenue sources, to cover vested employee benefits including but not limited to accrued vacation, health benefits, the employee payout portion of accrued sick leave, if any, and worker's compensation. In addition, an authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.

(i) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third-party payers. The charge schedule may include charges that are higher than costs for some service units by spreading nonrevenue service unit costs to revenue-producing service unit costs with total charges not exceeding total costs. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.

(5) In addition to other duties and responsibilities of a community mental health services program as set forth in this act, a community mental health authority shall do all of the following:

(a) Provide to each county creating the authority and to the department a copy of an annual independent audit performed by a certified public accountant in accordance with governmental auditing standards issued by the comptroller of the United States.

(b) Be responsible for all executive administration, personnel administration, finance, accounting, and management information system functions. The authority may discharge this responsibility through direct staff or by contracting for services.

(6) A county creating a community mental health authority is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a community mental health authority, its board, employees, representatives, or agents.

(7) A community mental health authority shall not levy any type of tax or issue any type of bond in its own name or financially obligate any unit of government other than itself.

(8) An employee of a community mental health authority is not a county employee. The community mental health authority is the employer with regard to all laws pertaining to employee and employer rights, benefits, and responsibilities.

(9) As a public governmental body, a community mental health authority is subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws, and the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, except for those documents produced as a part of the peer review process required in section 143a and made confidential by section 748(9).

Sec. 206. (1) The purpose of a community mental health services program shall be to provide a comprehensive array of mental health services appropriate to conditions of individuals who are located within its geographic service area, regardless of an individual's ability to pay. The array of mental health services shall include, at a minimum, all of the following:

(a) Crisis stabilization and response including a 24-hour, 7-day per week, crisis emergency service that is prepared to respond to persons experiencing acute emotional, behavioral, or social dysfunctions, and the provision of inpatient or other protective environment for treatment.

(b) Identification, assessment, and diagnosis to determine the specific needs of the recipient and to develop an individual plan of services.

(c) Planning, linking, coordinating, follow-up, and monitoring to assist the recipient in gaining access to services.

(d) Specialized mental health recipient training, treatment, and support, including therapeutic clinical interactions, socialization and adaptive skill and coping skill training, health and rehabilitative services, and pre-vocational and vocational services.

(e) Recipient rights services.

(f) Mental health advocacy.

(g) Prevention activities that serve to inform and educate with the intent of reducing the risk of severe recipient dysfunction.

(h) Any other service approved by the department.

(2) Services shall promote the best interests of the individual and shall be designed to increase independence, improve quality of life, and support community integration and inclusion. Services for children and families shall promote the best interests of the individual receiving services and shall be designed to strengthen and preserve the family unit if appropriate. The community mental health services program shall deliver services in a manner that demonstrates they are based upon recipient choice and involvement, and shall include wraparound services when appropriate.

Sec. 207. Each community mental health services program shall provide services designed to divert persons with serious mental illness, serious emotional disturbance, or developmental disability from possible jail incarceration when appropriate. These services shall be consistent with policy established by the department.

Sec. 208. (1) Services provided by a community mental health services program shall be directed to individuals who have a serious mental illness, serious emotional disturbance, or developmental disability.

(2) Services may be directed to individuals who have other mental disorders that meet criteria specified in the most recent diagnostic and statistical manual of mental health disorders published by the American psychiatric association and may also be directed to the prevention of mental disability and the promotion of mental health. Resources that have been specifically designated to community mental health services programs for services to individuals with dementia, alcoholism, or substance abuse or for the prevention of mental disability and the promotion of mental health shall be utilized for those specific purposes.



(3) Priority shall be given to the provision of services to individuals with the most severe forms of serious mental illness, serious emotional disturbance, and developmental disability. Priority shall also be given to the provision of services to individuals with a serious mental illness, serious emotional disturbance, or developmental disability in urgent or emergency situations.

(4) An individual shall not be denied a service because an individual who is financially liable is unable to pay for the service.

Sec. 209a. (1) The appropriate community mental health services program, with the assistance of the state facility or licensed hospital under contract with a community mental health services program, or the state facility shall develop an individualized prerelease plan for appropriate community placement and a prerelease plan for aftercare services appropriate for each resident. If possible, the resident shall participate in the development of a prerelease plan. In developing a prerelease plan for a minor, the community mental health services program shall include all of the following in the planning process if possible:

- (a) The minor, if the minor is 14 years of age or older.
- (b) The parent or guardian of the minor.
- (c) Personnel from the school and other agencies.

(2) If the responsible community mental health services program cannot locate suitable aftercare service with a residential component or an alternative to hospitalization in its service area, but the service is available from another service provider, the responsible community mental health service program may contract for the provision of services. The service shall be located as close to the individual's place of residence as possible.

(3) If a recipient of inpatient services provided through a community mental health services program is to be released, the licensed hospital under contract with a community mental health services program or a state facility shall provide the responsible community mental health services program with advance notice of an individual's anticipated release from patient care. The community mental health services program shall offer prerelease planning services and develop a release plan in cooperation with the individual unless the individual refuses this service.

(4) If a recipient of inpatient services provided through a community mental health services program is released before a prerelease plan can be completed, the community mental health services program shall offer to assist the recipient in the development of a postrelease plan within 10 days after release.

(5) Unless covered by contractual agreement, disclosure of information about the individual by the state facility or licensed hospital shall be made to those individuals involved in the development of the prerelease or postrelease plan or current individual plan of services, but shall be limited to the following:

- (a) Home address, gender, date of discharge or planned date of discharge, any transfer, and medication record.
- (b) Other information necessary to determine financial and social service needs, program needs, residential needs, and medication needs.

Sec. 209b. (1) Before an individual is placed in a supervised community living arrangement, such as a foster home, group care home, nursing home, or other community-based setting, the prerelease or postrelease planning for the individual shall involve the individual, the individual's legal guardian if a guardian has been appointed; any family member, friend, advocate, and professional the recipient chooses; the parents of a minor individual; the state facility or licensed hospital; the residential care provider, if such a provider has been selected; and, with the consent of the individual, the appropriate local and intermediate school systems and the department of social services, if appropriate. In each case, the community mental health services program shall produce in writing a plan for community placement and aftercare services that is sufficient to meet the needs of the individual and shall document any lack of available community services necessary to implement the plan.

(2) Each community mental health services program, as requested, shall send to the department aggregate data, which includes a list of services that were indicated on prerelease or postrelease plans, but which could not be provided.

Sec. 209d. Each community mental health services program regularly shall review the outcomes for recipients as a result of programs, treatment, and community services rendered to individuals in community settings and shall ensure that services are provided consistently with the standards of the department.

Sec. 210. Any single county or any combination of adjoining counties may elect to establish a community mental health services program by a majority vote of each county board of commissioners.

Sec. 212. Upon electing to establish a community mental health services program, the county or combination of counties shall establish a 12-member community mental health services board, except as provided in section 214, 219, or 222(2) or (5). Each board of commissioners shall by a majority vote appoint the board members from its county.

Recommended appointments to the board shall be made annually following the organizational meeting of the board of commissioners.

Sec. 216. Notwithstanding the provisions of sections 212 and 214, when a single county establishes a community mental health services program and totally situated within that county is a city having a population of at least 500,000, 6 of the 12 board members shall be appointed to the board by the city's chief executive officer. In a charter county, the remaining 6 members shall be appointed to the board by the county's chief executive officer, with the advice and consent of the county board of commissioners. The 6 board members appointed by the city shall be residents of the city, and the 6 board members appointed by the county or by the county executive in a charter county shall be residents of the county but not of the city.

Sec. 218. Any county that adjoins a county having an established community mental health services program may elect, by a majority vote of its board of commissioners, to join that established community mental health services program. The joining must be approved by the board of commissioners of each county already participating in the established community mental health services program, and the joining shall become effective on January 1 following the date of final approval. Upon the joining, the board of the established community mental health services program shall be dissolved, and a new board shall be appointed in the manner provided in sections 212 and 214.

Sec. 219. (1) A county having an established community mental health services program may elect to merge with an established community mental health services program in an adjoining county. A merger shall be approved by a majority vote of the board of commissioners of each participating county, and shall become effective on January 1 immediately following the date of final approval. If a community mental health services program elects to merge with an established community mental health authority, the resulting community mental health authority shall be created in accordance with section 205.

(2) The board of commissioners of each participating county may elect by a majority vote to appoint 1 or more of the community mental health services board members to the new board, even if that action would result in a size or composition of the board which is different than that provided for in sections 212, 214, and 222.

(3) If the board of commissioners of 1 or more participating counties does not agree to permit appointment of members to the new board in the manner provided in subsection (2), the new board shall be appointed in the manner provided in sections 212, 214, and 222.

(4) A new board that is different in size or composition than that provided for in section 212, 214, or 222 shall be brought into compliance with those sections not later than 3 years after the date of merger.

Sec. 220. Termination of a county's participation in a community mental health services program, whether that participation is singular or joint, may be accomplished by an official notification from the county's board of commissioners to the department and the other concerned county boards of commissioners or, in a charter county, by an official notification from the county's board of commissioners upon a request from the county executive. The date of termination shall be 1 year following the receipt of notification by the department, unless the director of the department consents to an earlier termination. In the interim between notification and official termination, the county's participation in the community mental health services program shall be maintained in good faith.

Sec. 222. (1) The composition of a community mental health services board shall be representative of providers of mental health services, recipients or primary consumers of mental health services, agencies and occupations having a working involvement with mental health services, and the general public. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3 at least 2 members shall be primary consumers. All board members shall be 18 years of age or older.

(2) Not more than 4 members of a board may be county commissioners, except that when a board represents 5 or more counties, the number of county commissioners who may serve on the board may equal the number of counties represented on the board, and the total of 12 board memberships shall be increased by the number of county commissioners serving on the board that exceeds 4. No more than half of the total board members may be state, county, or local public officials. For purposes of this section, public officials are defined as individuals serving in an elected or appointed public office or employed more than 20 hours per week by an agency of federal, state, city, or local government.

(3) A board member shall have his or her primary place of residence in the county he or she represents.

(4) An individual shall not be appointed to and shall not serve on a board if he or she is 1 or more of the following:

(a) Employed by the department or the community mental health services program.

(b) A party to a contract with the community mental health services program or administering or benefiting financially from a contract with the community mental health services program.

(c) Serving in a policy-making position with an agency under contract with the community mental health services program.

(5) If a board member is an employee or independent contractor in other than a policy-making position with an agency with which the board is considering entering into a contract, the contract shall not be approved unless all of the following requirements are met:

(a) The board member shall promptly disclose his or her interest in the contract to the board.

(b) The contract shall be approved by a vote of not less than 2/3 of the membership of the board in an open meeting without the vote of the board member in question.

(c) The official minutes of the meeting at which the contract is approved shall contain the details of the contract, including but not limited to the names of all parties and the terms of the contract, and the nature of the board member's interest in the contract.

(6) In order to meet the requirement under subsection (1) related to the appointment of primary consumers and family members without terminating the appointment of a board member serving on the effective date of this subsection, the size of a board may exceed the size prescribed in section 212. A board that is different in size than that prescribed in section 212 shall be brought into compliance within 3 years after the appointment of the additional board members.

Sec. 224. The term of office of a board member shall be 3 years from April 1 of the year of appointment, except that of the members first appointed, 4 shall be appointed for a term of 1 year, 4 for 2 years, and 4 for 3 years. A vacancy shall be filled for an unexpired term in the same manner as an original appointment. A board member may be removed from office by the appointing board of commissioners or, if the board member was appointed by the chief executive officer of a county or a city under section 216, by the chief executive officer who appointed the member for neglect of official duty or misconduct in office after being given a written statement of reasons and an opportunity to be heard on the removal. A board member shall be paid a per diem no larger than the highest per diem for members of other county advisory boards set by the county board of commissioners and be reimbursed for necessary travel expenses for each meeting attended. The mileage expense fixed by the county board of commissioners shall not exceed the mileage reimbursement as determined by the state officers compensation commission. A board member shall not receive more than 1 per diem payment per day regardless of the number of meetings scheduled by the board for that day.

Sec. 226. (1) The board of a community mental health services program shall do all of the following:

(a) Annually conduct a needs assessment to determine the mental health needs of the residents of the county or counties it represents and identify public and nonpublic services necessary to meet those needs. Information and data concerning the mental health needs of individuals with developmental disability, serious mental illness, and serious emotional disturbance shall be reported to the department in accordance with procedures, and at a time, established by the department, along with plans to meet identified needs. It is the responsibility of the community mental health services program to involve the public and private providers of mental health services located in the county or counties served by the community mental health program in this assessment and service identification process. The needs assessment shall include information gathered from all appropriate sources, including community mental health waiting list data and school districts providing special education services.

(b) Annually review and submit to the department a needs assessment report, annual plan, and request for new funds for the community mental health services program. The standard format and documentation of the needs assessment, annual plan, and request for new funds shall be specified by the department.

(c) In the case of a county community mental health agency, obtain approval of its needs assessment, annual plan and budget, and request for new funds from the board of commissioners of each participating county prior to submission of the plan to the department. In the case of a community mental health organization, provide a copy of its needs assessment, annual plan, request for new funds, and any other document specified in accordance with the terms and conditions of the organization's inter-local agreement to the board of commissioners of each county creating the organization. In the case of a community mental health authority, provide a copy of its needs assessment, annual plan, and request for new funds to the board of commissioners of each county creating the authority.

(d) Submit the needs assessment, annual plan, and request for new funds to the department by the date specified by the department. The submission constitutes the community mental health services program's official application for new state funds.

(e) Provide and advertise a public hearing on the needs assessment, annual plan, and request for new funds before providing them to the county board of commissioners.

(f) Submit to each board of commissioners for their approval an annual request for county funds to support the program. The request shall be in the form and at the time determined by the board or boards of commissioners.

(g) Annually approve the community mental health services program's operating budget for the year.

(h) Take those actions it considers necessary and appropriate to secure private, federal, and other public funds to help support the community mental health services program.

(i) Approve and authorize all contracts for the provision of services.

(j) Review and evaluate the quality, effectiveness, and efficiency of services being provided by the community mental health services program. The board shall identify specific performance criteria and standards to be used in the review and evaluation. These shall be in writing and available for public inspection upon request.

(k) Subject to subsection (3), appoint an executive director of the community mental health services program who shall meet standards of training and experience established by the department.

(l) Establish general policy guidelines within which the executive director shall execute the community mental health services program.

(m) Require the executive director to select a physician, a registered professional nurse with a specialty certification issued under section 17210 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.17210 of the Michigan Compiled Laws, or a licensed psychologist to advise the executive director on treatment issues.

(2) A community mental health services program may do all of the following:

(a) Establish demonstration projects allowing the executive director to do 1 or both of the following:

(i) Issue a voucher to a recipient in accordance with the recipient's plan of services developed by the community mental health services program.

(ii) Provide funding for the purpose of establishing revolving loans to assist recipients of public mental health services to acquire or maintain affordable housing. Funding under this subparagraph shall only be provided through an agreement with a nonprofit fiduciary.

(b) Until the expiration of 3 years after the effective date of the amendatory act that added this subsection, carry forward the operating margin up to 5% of the community mental health services program's state share of the operating budget. As used in this subdivision, "operating margin" means the excess of state revenue over state expenditures for a single fiscal year exclusive of capitated payments under a managed care system. In the case of a community mental health authority, this carryforward is in addition to the reserve accounts described in section 205(4)(h).

(c) Pursue, develop, and establish partnerships with private individuals or organizations to provide mental health services.

(3) In the case of a county community mental health agency, the initial appointment by the board of an individual as executive director is effective unless rejected by a 2/3 vote of the county board of commissioners within 15 calendar days.

Sec. 226a. A community mental health services program board may create a special fund account to receive recipient fees and third-party reimbursements for services rendered. In the case of a county community mental health agency, approval of the board of commissioners of each participating county is necessary before creation of the special fund account. Receipts into the fund shall be recorded by source of payment and by type of service rendered, and a report regarding this information shall be submitted on a quarterly basis to the department. Money in the special fund account shall be used only for matching state funds or for the provision of community mental health services.

Sec. 227. Each community mental health services program shall participate in the development of school-to-community transition services for individuals with serious mental illness, serious emotional disturbance, or developmental disability. This planning and development shall be done in conjunction with the individual's local school district or intermediate school district as appropriate and shall begin not later than the school year in which the individual student reaches 16 years of age. These services shall be individualized. This section is not intended to increase or decrease the fiscal responsibility of school districts, community mental health services programs, or any other agency or organization with respect to individuals described in this section.

Sec. 228. Subject to the provisions of this chapter, a board is authorized to enter into contracts for the purchase of mental health services and property lease arrangements with private or public agencies or individuals. A board may enter into a contract with any facility or entity of the department with the approval of the director of the department.

Sec. 230. The executive director of a community mental health services program shall function as the chief executive and administrative officer of the program and shall execute and administer the program in accordance with the approved annual plan and operating budget, the general policy guidelines established by the board, the applicable governmental procedures and policies, and the provisions of this act. The executive director has the authority and responsibility for supervising all employees. The terms and conditions of an executive director's employment, including tenure of service, shall be as mutually agreed to by the board and the executive director and shall be specified in a written contract.

Sec. 231. The executive director shall appoint a medical director who is a psychiatrist. The medical director shall advise the executive director on medical policy and treatment issues.

Sec. 232. The department shall review each community mental health services program's annual plan, needs assessment, request for funds, annual contract, and operating budget and approve or disapprove state funding in whole or in part. Eligibility for state financial support shall be contingent upon an approved contract and operating budget and certification in accordance with section 232a. Prior to the beginning of each state fiscal year, the department shall allocate state appropriated funds to the community mental health service programs in accordance with the approved contracts and budgets.

Sec. 232a. (1) Subject to section 114a, the department shall promulgate rules to establish standards for certification and the certification review process for community mental health services programs. The standards shall include but not be limited to all of the following:

- (a) Matters of governance, resource management, quality improvement, service delivery, and safety management.
- (b) Promotion and protection of recipient rights.

(2) After reviewing a community mental health services program, the department shall notify a program that substantially complies with the standards established under this section that it is certified by the department.

(3) The department may waive the certification review process in whole or in part and consider the community mental health services program to be in substantial compliance with the standards established under this section if the program has received accreditation from a national accrediting organization recognized by the department that includes review of matters described in subsection (1)(a).

(4) If the department certifies a community mental health services program despite some items of noncompliance with the standards established under this section, the notice of certification shall identify the items of noncompliance and the program shall correct the items of noncompliance. The department shall require the community mental health board to submit a plan to correct items of noncompliance before recertification or sooner at the discretion of the department.

(5) Certification is effective for 3 years and is not transferable. Requests for recertification shall be submitted to the department at least 6 months before the expiration of certification. Certification remains in effect after the submission of a renewal request until the department conducts a review and makes a redetermination.

(6) The department shall conduct an annual review of each community mental health services program's recipient rights system to ensure compliance with standards established under subsection (1)(b). An on-site review shall be conducted once every 3 years.

(7) The community mental health services program shall promptly notify the department of any changes that may affect continued certification.

(8) The department may deny certification if the community mental health services program cannot demonstrate substantial compliance with the standards established under this section.

(9) In lieu of denying certification, the department may issue a provisional certification for a period of up to 6 months upon receiving a plan of correction submitted by the community mental health services board. The department shall provide a copy of the review and the approved plan of correction to the board of commissioners of each county that established the county community mental health agency or created the community mental health organization or community mental health authority. A provisional certification may be extended, but the entire provisional period shall not exceed 1 year. The department shall conduct an on-site review to determine the community mental health services program's compliance with the plan of correction at least 30 days before the expiration of the provisional certification. A provisional certification automatically expires either on its original expiration date or the expiration date of the extension granted.

(10) If a community mental health services program is denied certification, fails to comply with an approved plan of correction before the expiration of a provisional certification, or fails to comply substantially with the standards established under this section, the department shall notify the community mental health services board and the board of commissioners of each county that established the agency or created the organization or authority of the department's intention to suspend, deny, or revoke certification. The notice shall be sent by certified mail and shall set forth the particular reasons for the proposed action and offer an opportunity for a hearing with the director of the department's division that manages contracts with community mental health services programs. If it desires a hearing, the community mental health services board shall request it in writing within 60 days after receipt of the notice. The department shall hold the hearing not less than 30 days or more than 60 days from the date it receives the request for a hearing.

(11) The director of the department's division that manages contracts with community mental health services programs shall make a decision regarding suspension, denial, or revocation of certification based on evidence presented at the hearing or on the default of the community mental health services board. A copy of the decision shall be sent by

certified mail within 45 days after the close of the hearing to the community mental health services board and to the board of commissioners of each county that established the agency or created the organization or authority.

(12) A community mental health services board may appeal a decision made under subsection (11) as provided in chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws.

(13) During the period of certification, the department may conduct an unannounced review of a certified community mental health services program. The department shall conduct an unannounced review of a certified community mental health services program in response to information that raises questions regarding recipient health or safety. If the department finds based on its review that the community mental health services program does not substantially comply with the standards established under this section, the department shall provide notice and a hearing under subsections (10) and (11).

(14) If a community mental health services program fails to obtain or retain certification as a result of the department's review, has exhausted the time period for provisional certification, is not engaged in the process of appeal or appeal has been unsuccessful, and if no agreement has been reached by the department with the community mental health services program to assure certification compliance within a specified time period, the department shall within 90 days do both of the following:

(a) Cancel the state funding commitment to the community mental health services board.

(b) Utilize the funds previously provided to the community mental health services board to do 1 or more of the following:

(i) Secure services from other providers of mental health services that the department has determined can operate in substantial compliance with the standards established under this section and continue the delivery of services within the county or counties.

(ii) Provide the service.

(15) If state funding is canceled under subsection (14) and the community mental health services program is an authority created under section 205, the county or counties that created the authority are financially liable only for the local match formula established for the authority under chapter 3. If state funding is canceled under subsection (14) and the community mental health services program is a county community mental health agency or a community mental health organization, the county or counties that established the agency are financially liable for local match for all services contractually or directly provided by the department to residents of the county or counties in accordance with chapter 3.

(16) The department shall not utilize the certification process under this section to require a community mental health services program to become a community mental health authority. Community mental health authority status is voluntary as provided in section 205.

(17) Subject to section 114a, the department shall submit proposed rules for certification to public hearing within 6 months after the effective date of the amendatory act that added this section.

Sec. 234. In reviewing a community mental health services program's proposed contract and operating budget for the purpose of approval or disapproval, in whole or in part, or in making an allocation of state appropriated funds to a community mental health services program, the department shall consider:

(a) The state's mental health needs.

(b) The annual plan and needs assessment of the community mental health services program.

(c) The state's need for a reasonable degree of statewide standardization and control of services.

(d) The community mental health services program's need for a reasonable degree of flexibility and freedom to design, staff, and administer services in a manner that the program considers appropriate to its situation.

(e) The community mental health services program's need for a reasonable expectation that services meeting an essential mental health need and that are appropriately designed and executed will receive continuing state financial support within the constraint of state funds actually appropriated by the legislature.

(f) The demonstrated relevancy, quality, effectiveness, and efficiency of the community mental health services program's services.

(g) The adequacy of the community mental health services program's accounting for the expenditure of state funds.

Sec. 236. At intervals during the year, the department shall review the expenditures of each community mental health services program, and if the department determines that funds that have been allocated to a program are not needed by that program, the department may, with the concurrence of the board, withdraw the funds. Funds so withdrawn may be reallocated by the department to other community mental health services programs. The department may withdraw funds that have been allocated to a community mental health services program when the

funds are being expended in a manner not provided for in the approved contract and operating budget. The department shall establish standards related to the frequency and timing of expenditure reviews described in this section.

Sec. 238. If an executive director or a board specifically so requests, any action by the department involving a disapproval of a community mental health services program's proposed contract and operating budget, in whole or in part, or involving an allocation of funds to a community mental health services program or a withdrawal of funds from a community mental health services program, shall be reviewed in consultation with the affected executive director or board before the action is considered a final action. In any consultation, the representative of the community mental health services program shall be afforded a full opportunity to present his or her position.

Sec. 240. All expenditures by a community mental health services program necessary to execute the program shall be eligible for state financial support, except those excluded under section 242. Expenditures necessary to carry out the responsibilities and duties of a community mental health services program include expenditures for staff training and staff education and for mental health research when those expenditures are necessary or appropriate to the execution of the program.

Sec. 241. Expenditures for the maintenance and repair of adult foster care facilities owned or leased by a community mental health services program are eligible for state financial support. Expenses incurred in renovating an adult foster care facility that is leased or owned by a community mental health services program are also eligible for state financial support if the expenses are incurred for 1 or more of the following purposes:

- (a) To correct physical plant deficiencies cited by the department of social services under state licensing rules.
- (b) To purchase and install fire safety equipment or make physical plant changes that measurably assure a reasonable level of fire protection for all of the residents who live in the facility.
- (c) To correct physical plant deficiencies in accordance with state and federal certification standards.
- (d) To restore the facility to its prelease condition, if the facility's lease contains a clause stipulating that renovation is the lessee's responsibility at the time the lease expires or is terminated.

Sec. 242. The following expenditures by a community mental health services program are not eligible for state financial support except as permitted under section 241 or by the department:

- (a) The construction, purchase, remodeling, or any similar capital cost of a building or facility, except that such cost is eligible for state financial support on an annual expense basis in an amount equal to a fair rental value of the space or building being utilized.
- (b) The capital cost of equipment or similar items in an amount greater than that established by the department.
- (c) Any cost item that does not represent or constitute a real or actual expenditure by the community mental health services program except to expend from a reserve account established by the board, as provided in section 205.
- (d) That part of any expenditure that is obviously and manifestly extravagant in relation to its specific objective and context.
- (e) Any category of expenditure or any portion of any category of expenditure, the ineligibility of which the department determines is necessary and appropriate to assure the reasonable use of state funds or to assure a legitimate interest of the state, and which determination is in accord with the intent and provisions of this chapter. Subject to section 114a, this subdivision shall be effectuated by rules promulgated by the department.

Sec. 244. In addition to the duties and powers elsewhere provided in this chapter, the department shall do all of the following:

- (a) Seek to develop and establish arrangements and procedures for the effective coordination and integration of state services and community mental health services programs.
- (b) Review and evaluate, at times and in a manner the department considers appropriate, the relevancy, quality, effectiveness, and efficiency of community mental health services programs. In developing or operating its community mental health services program information system, the department shall not collect any information that would make it possible to identify by name any individual who receives a service from a community mental health services program. Any such information in the possession of the department before August 6, 1974 shall not be disclosed by the department.
- (c) Provide technical consultative services to counties seeking to establish or improve a community mental health services program, and provide other technical consultative services to community mental health services programs as the department considers feasible and appropriate.
- (d) Audit, or cause to be audited, the expenditure of state funds by community mental health services programs. Copies of audit reports shall be forwarded to the auditor general.

(e) Subject to section 114a, promulgate rules it considers necessary or appropriate to implement the objectives and provisions of this chapter.

Sec. 245. The directors of psychiatric hospitals operated by the department may grant staff privileges to psychiatrists employed by or under contract with a community mental health services program under guidelines established by the hospital's governing body if requested by the executive director of the program. Staff privileges authorized under this section include the admission, treatment, and discharge of patients admitted from that program's service area. The credentials committee of the medical staff of the hospital shall review the credentials of all applicants for staff privileges and recommend to the hospital director the approval or disapproval of the granting of staff privileges to the applicant. Denial of a request for staff privileges may be appealed by the executive director to the hospital's governing board.

Sec. 302. (1) Except as otherwise provided in this chapter and in subsection (2), a county is financially liable for 10% of the net cost of any service that is provided by the department, directly or by contract, to a resident of that county.

(2) This section does not apply to the following:

(a) Family support subsidies established under section 156.

(b) A service provided to an individual under criminal sentence to a state prison.

Sec. 306. (1) For the purpose of section 302, an individual's county of residence is the county in which the individual maintained his or her primary place of residence at the time he or she entered 1 of the following:

(a) A dependent living setting.

(b) A boarding school.

(c) A facility.

(2) A community mental health services program shall not deny or delay requested services to an individual for the reason that the individual's county of residence, as determined by this section, is in the service area of another community mental health services program.

Sec. 307. Financial responsibility for services to an individual whose county of residence has been determined under section 306 may be transferred from 1 county to another if both community mental health services programs, the individual or his or her plenary guardian, if applicable, and the department agree to the transfer. If a transfer is made pursuant to this section, the department shall transfer from the original county of residence to the new county of residence 100% of the cost of the services agreed upon by both community mental health services programs. County matching funds are not required for services to an individual whose county of residence has been transferred under this section.

Sec. 308. (1) Except as otherwise provided in this chapter and subsections (2) and (3), and subject to the constraint of funds actually appropriated by the legislature for such purpose, the state shall pay 90% of the annual net cost of a community mental health services program that is established and administered in accordance with chapter 2.

(2) Beginning in the fiscal year after a community mental health services program becomes a community mental health authority under section 205, if the department increases the amount of state funds provided to community mental health services programs for the fiscal year, all of the following apply:

(a) The amount of local match required of a community mental health authority for that fiscal year shall not exceed the amount of funds provided by the community mental health services program as local match in the year in which the program became a community mental health authority.

(b) Subject to the constraint of funds actually appropriated by the county or county board of commissioners, the amount of county match required of a county or counties that have created a community mental health authority shall not exceed the amount of funds provided by the county or counties as county match in fiscal year 1994-1995 or the year the authority is created, whichever is greater.

(c) If the local match provided by the community mental health services program is less than the level of local match provided in the year in which the community mental health services program became a community mental health authority, subdivision (a) does not apply.

(d) The state is not obligated to provide additional state funds because of the limitation on local funding levels provided for in subdivisions (a) and (b).

(3) The state shall pay the family support subsidies established under section 156.

(4) If 2 or more existing community mental health services programs merge pursuant to section 219, the state shall pay 100% of administrative costs approved by the department for the newly created community mental health services program for 3 years after the date of merger.



(5) If a county demonstrates an inability to meet its local match obligation due to financial hardship, the department may do either of the following:

(a) Accept a joint plan of correction from the county and its community mental health services program that ensures full payment over an extended period of time.

(b) Waive a portion of the county's obligation based on hardship criteria established by the department.

Sec. 309. Except as otherwise provided in this chapter, and subject to the constraint of funds actually appropriated by the legislature, the state shall pay all of the costs of a specialized residential service that are eligible for state financial support and approved by the department and that are not otherwise paid for by federal funds, state funds, or reimbursements from persons and insurers who are financially liable for the cost of services, and that meet all of the following conditions:

(a) The service is established and administered under the authority of the board of the community mental health services program and in accordance with chapter 2.

(b) The service did not exist as part of the community mental health services program before March 31, 1981.

(c) The service is approved by the department and operated in conformance with departmental policies and guidelines governing specialized residential programs.

Sec. 310. For the purpose of section 308, "net cost" means:

(a) For a community mental health services program expenditures eligible for state financial support and approved by the department and that are not otherwise paid for by federal funds, state funds, or reimbursements from persons and insurers who are financially liable for the cost of services.

(b) Except as provided in subdivision (a), the total of all community mental health services program expenditures eligible for state financial support and approved by the department that are not otherwise paid for by federal funds or state funds.

Sec. 312. If a community mental health services program represents 2 or more counties, the amount of county funds necessary to support the program shall be paid by each county in proportion to its population, except that, with the consent of each county's board of commissioners, a different method of county cost sharing may be utilized.

Sec. 314. In each county having a community mental health services program, the county's annual appropriation for the cost of services provided by the state and for the county's cost of supporting the community mental health services program shall be made as a single appropriation to the board of the community mental health services program. The county's annual single appropriation may be made by line item.

Sec. 316. The expenditure of a county's tax funds to pay for services provided by the state or to pay the county's cost of supporting a community mental health services program may be made from the county's general tax fund or from the proceeds of a special tax established for such purpose.

Sec. 320. Nothing in this chapter prevents a community mental health services program from allocating available local funds in excess of the required local match.

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

(a) "Clinical certificate" means the written conclusion and statements of a physician or a licensed psychologist that an individual is a person requiring treatment, together with the information and opinions, in reasonable detail, that underlie the conclusion, on the form prescribed by the department or on a substantially similar form.

(b) "Competent clinical opinion" means the clinical judgment of a physician, psychiatrist, or licensed psychologist.

(c) "Court" means the probate court or the court with responsibility with regard to mental health services for the county of residence of the subject of a petition, or for the county in which the subject of a petition was found.

(d) "Formal voluntary hospitalization" means hospitalization of an individual based on both of the following:

(i) The individual's execution of an application for voluntary hospitalization.

(ii) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(e) "Informal voluntary hospitalization" means hospitalization of an individual based on all of the following:

(i) The individual's request for hospitalization.

(ii) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(iii) The individual's agreement to accept treatment.

(f) "Involuntary mental health treatment" means court-ordered hospitalization, alternative treatment, or combined hospitalization and alternative treatment as described in section 468.

(g) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(h) "Preadmission screening unit" means a service component of a community mental health services program established under section 409.

(i) "Private-pay patient" means a patient whose services and care are paid for from funding sources other than the community mental health services program, the department, or other state or county funding.

(j) "Release" means the transfer of an individual who is subject to an order of combined hospitalization and alternative treatment from 1 treatment program to another in accordance with his or her individual plan of services.

(k) "Subject of a petition" means an individual regarding whom a petition has been filed with the court asserting that the individual is or is not a person requiring treatment or for whom an objection to involuntary mental health treatment has been made under section 484.

Sec. 401. (1) As used in this chapter, "person requiring treatment" means (a), (b), or (c):

(a) An individual who has mental illness, and who as a result of that mental illness can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself or herself or another individual, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.

(b) An individual who has mental illness, and who as a result of that mental illness is unable to attend to those of his or her basic physical needs such as food, clothing, or shelter that must be attended to in order for the individual to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.

(c) An individual who has mental illness, whose judgment is so impaired that he or she is unable to understand his or her need for treatment and whose continued behavior as the result of this mental illness can reasonably be expected, on the basis of competent clinical opinion, to result in significant physical harm to himself or herself or others. This individual shall receive involuntary mental health treatment initially only under the provisions of sections 434 through 438 of this act.

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

Sec. 402a. A licensed hospital may admit and treat voluntary or involuntary private-pay patients without complying with the preadmission screening requirements of section 410 or consulting with the community mental health services program before release or discharge of the patient, if no state, county, or community mental health services program funds are obligated for the services provided by the licensed hospital, including aftercare services. All other provisions of this code regarding involuntary admission and recipient rights apply to the provision of services by licensed hospitals.

Sec. 403. Individuals shall receive involuntary mental health treatment only pursuant to the provisions of this act.

Sec. 406. If an individual asserted to be a person requiring treatment is considered by a hospital to be suitable for informal or formal voluntary hospitalization, the hospital shall offer the individual the opportunity to request or make application for hospitalization as an informal or formal voluntary patient. If the individual is voluntarily hospitalized, the hospital director shall inform the court, and the court shall dismiss any pending proceeding for admission unless it finds that dismissal would not be in the best interest of the individual or the public.

Sec. 407. A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be detrimental to the patient and if both the community mental health services program and the department approve the transfer. The patient and the patient's guardian or nearest relative shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if it is necessitated by an emergency. In addition, the patient may designate up to 2 other persons to receive the notice. If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer. If the patient or the patient's guardian or nearest relative objects to the transfer, the department shall provide an opportunity to appeal the transfer.

Sec. 408. (1) An individual is subject to being returned to a hospital if both of the following circumstances exist:

(a) The individual was admitted to the hospital by judicial order.

(b) The individual has left the hospital without authorization, or has refused a lawful request to return to the hospital while on an authorized leave or other authorized absence from the hospital.

(2) The hospital director may notify peace officers that an individual is subject to being returned to the hospital. Upon notification by the hospital director, a peace officer shall take the individual into protective custody and return the individual to the hospital unless contrary directions have been given by the hospital director.

(3) An opportunity for appeal, and notice of that opportunity, shall be provided to an individual who objects to being returned from any authorized leave in excess of 10 days.

Sec. 409. (1) Each community mental health services program shall establish 1 or more preadmission screening units with 24-hour availability to provide assessment and screening services for individuals being considered for admission into hospitals or alternative treatment programs. The community mental health services program shall employ mental health professionals to provide the preadmission screening services or contract with another agency, which shall meet the requirements of this section. Preadmission screening unit staff shall be supervised by a registered professional nurse or other mental health professional possessing at least a master's degree.

(2) Each community mental health services program shall provide the address and telephone number of its preadmission screening unit or units to law enforcement agencies, the department, the court, and hospital emergency rooms.

(3) A preadmission screening unit shall assess individuals who seek authorization for admission into hospitals operated by the department or under contract with the community mental health services program. If the individual is clinically suitable for hospitalization, the preadmission screening unit shall authorize voluntary admission to the hospital.

(4) If the preadmission screening unit of the community mental health services program denies hospitalization, the individual may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist as soon as possible. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available. If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide appropriate referral services.

(5) If an individual is assessed and found not to be clinically suitable for hospitalization, the preadmission screening unit shall provide information regarding alternative services and the availability of those services, and make appropriate referrals.

(6) A preadmission screening unit shall assess and examine, or refer to a hospital for examination, an individual who is brought to the unit by a peace officer or ordered by a court to be examined. If the individual meets the requirements for hospitalization, the preadmission screening unit shall designate the hospital to which the individual shall be admitted. The preadmission screening unit shall consult with the individual and, if the individual agrees, it shall consult with the individual's family member of choice, if available, as to the preferred hospital for admission of the individual.

(7) If the individual chooses a hospital not under contract with a community mental health services program, and the hospital agrees to the admission, the preadmission screening unit shall refer the individual to the hospital that is requested by the individual. Any financial obligation for the services provided by the hospital shall be satisfied from funding sources other than the community mental health services program, the department, or other state or county funding.

Sec. 410. Except as otherwise provided in section 402a, an individual seeking either informal or formal voluntary admission to a hospital operated by the department or a hospital under contract with a community mental health services program may be considered for admission by the hospital only after authorization by a community mental health services preadmission screening unit.

Sec. 411. Subject to section 410, an individual 18 years of age or over may be hospitalized as an informal voluntary patient if he or she requests hospitalization as an informal voluntary patient and if the hospital director considers the individual to be clinically suitable for that form of hospitalization. Unless the hospital requires that the request be made in writing, the individual may make the request orally.

Sec. 415. Subject to section 410, an individual 18 years of age or over may be hospitalized as a formal voluntary patient if the individual executes an application for hospitalization as a formal voluntary patient or the individual assents and the full guardian of the individual or the limited guardian with authority to admit executes an application for hospitalization and if the hospital director considers the individual to be clinically suitable for that form of hospitalization.

Sec. 416. The formal application shall contain in large type and simple language the substance of sections 419 and 420. Upon hospitalization, the rights set forth in the application shall be orally communicated to the patient and to the

individual who executed the application. In addition, a copy of the application shall be given to the patient and the individual who executed the application and to 1 other individual designated by the patient.

Sec. 420. If a written notice of termination of hospitalization is given to a hospital under section 419, if the notice is not withdrawn, and if the hospital director determines that the patient is a person requiring treatment as defined in section 401 and should remain in the hospital, the hospital director or other suitable person shall within 3 days, excluding Sundays and holidays, after the hospital's receipt of the notice, file an application with the court that complies with section 423. The application shall be accompanied by 1 clinical certificate executed by a psychiatrist and 1 clinical certificate executed by either a physician or a licensed psychologist. If an application is filed, the hospital may continue hospitalization of the patient pending hearings convened pursuant to sections 451 to 465.

Sec. 422. (1) Each community mental health services program shall designate the hospitals with which it has a contract to receive and detain individuals under section 427 or 428.

(2) Each community mental health services program shall notify the department and the state court administrative office of the hospitals designated under subsection (1).

(3) The department shall designate those hospitals that are required to receive and detain individuals presented for examination pursuant to section 427 or 428.

Sec. 423. A hospital designated by the department or by a community mental health services program shall hospitalize an individual presented to the hospital, pending receipt of a clinical certificate by a psychiatrist stating that the individual is a person requiring treatment, if an application, a physician's or a licensed psychologist's clinical certificate, and an authorization by a preadmission screening unit have been executed.

Sec. 425. A physician's or a licensed psychologist's clinical certificate required for hospitalization of an individual under section 423 shall have been executed after personal examination of the individual named in the clinical certificate, and within 72 hours before the time the clinical certificate is filed with the hospital. The clinical certificate may be executed by any physician or licensed psychologist, including a staff member or employee of the hospital with which the application and clinical certificate are filed.

Sec. 426. Upon delivery to a peace officer of an application and physician's or licensed psychologist's clinical certificate, the peace officer shall take the individual named in the application into protective custody and transport the individual immediately to the preadmission screening unit or hospital designated by the community mental health services program for hospitalization under section 423. If the individual taken to a preadmission screening unit meets the requirements for hospitalization, then unless the community mental health services program makes other transportation arrangements, the peace officer shall take the individual to a hospital designated by the community mental health services program. Transportation to another hospital due to a transfer is the responsibility of the community mental health services program.

Sec. 427. (1) If a peace officer observes an individual conducting himself or herself in a manner that causes the peace officer to reasonably believe that the individual is a person requiring treatment as defined in section 401, 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 those 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 arrival at the preadmission screening unit or site designated by the preadmission screening unit, the peace officer shall execute an application for hospitalization of the individual. As soon as practical, the preadmission screening unit shall offer to contact an immediate family member of the recipient to let the family know that the recipient has been taken into protective custody and where he or she is located. The preadmission screening unit shall honor the recipient's decision as to whether an immediate family member is to be contacted and shall document that decision in the recipient's record. In the course of providing services, the preadmission screening unit may provide advice and consultation to the peace officer, which may include a recommendation to transport the individual to a hospital for examination under section 429, or to release the individual from protective custody. However, the preadmission screening unit shall ensure that an examination is conducted by a physician or licensed psychologist prior to a recommendation to release the individual. The preadmission screening unit shall ensure provision of follow-up counseling and diagnostic and referral services if needed if it is determined under section 429 that the person does not meet the requirements for hospitalization.

(2) A peace officer is not financially responsible for the cost of care of an individual for whom a peace officer has executed an application under subsection (1).

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

Sec. 427a. (1) If a peace officer is taking an individual into protective custody, the peace officer may use that kind and degree of force that would be lawful if the peace officer were effecting an arrest for a misdemeanor without a warrant. In taking the individual into custody, a peace officer may take reasonable steps for self-protection. The protective steps may include a pat down search of the individual in the individual's immediate surroundings, but only to the extent necessary to discover and seize a dangerous weapon that may be used against the officer or other persons present. These protective steps shall be taken by the peace officer before the individual is transported to a preadmission screening unit or a hospital designated by the community mental health services program.

(2) The taking of an individual to a community mental health services program's preadmission screening unit or a hospital under section 427 is not an arrest, but is a taking into protective custody. The peace officer shall inform the individual that he or she is being held in protective custody and is not under arrest. An entry shall be made indicating the date, time, and place of the taking, but the entry shall not be treated for any purpose as an arrest or criminal record.

Sec. 428. If a person who executed an application for hospitalization of an individual is unable after reasonable effort to secure an examination of the individual by a physician or a licensed psychologist, the application may be presented to the court. If the court is satisfied that the application is reasonable and in full compliance with section 424, and that a reasonable effort was made to secure an examination, the court may order the individual to be examined at a preadmission screening unit designated by the community mental health services program. If it considers it necessary, the court may also order a peace officer to take the individual into protective custody and transport the individual immediately to a preadmission screening unit designated by the community mental health services program for the examination and possible referral on to the hospital.

Sec. 429. (1) A hospital designated under section 422 shall receive and detain an individual presented for examination under section 427 or 428 for not more than 24 hours. During that time the individual shall be examined by a physician or a licensed psychologist. If the examining physician or psychologist does not certify that the individual is a person requiring treatment, the individual shall be released immediately. If the examining physician or psychologist executes a clinical certificate, the individual may be hospitalized under section 423.

(2) If a preadmission screening unit provides an examination under section 410, 427, or 428, the examination shall be conducted as soon as possible after the individual arrives at the preadmission screening site, and the examination shall be completed within 2 hours, unless there are documented medical reasons why the examination cannot be completed within that time frame or other arrangements are agreed upon by the peace officer and the preadmission screening unit.

Sec. 430. If a patient is hospitalized under section 423, the patient shall be examined by a psychiatrist as soon after hospitalization as is practicable, but not later than 24 hours, excluding legal holidays, after hospitalization. The examining psychiatrist shall not be the same physician upon whose clinical certificate the patient was hospitalized. If the psychiatrist does not certify that the patient is a person requiring treatment, the patient shall be released immediately. If the psychiatrist does certify that the patient is a person requiring treatment, the patient's hospitalization may continue pending hearings convened pursuant to sections 451 to 465.

Sec. 431. (1) Within 24 hours after receipt of a clinical certificate by a psychiatrist pursuant to section 430, the hospital director shall transmit a notice to the court that the patient has been hospitalized. The notice shall be accompanied by a copy of the application and copies of the 2 clinical certificates that were executed.

(2) A copy of the application, a copy of the 2 clinical certificates, and a statement of the right of the patient to court hearings under sections 451 to 465 shall also be given or mailed to the patient's nearest relative or guardian and to his or her attorney.

(3) The patient shall be asked if he or she desires that the documents listed in subsection (2) be sent to any other persons, and at least 2 of any persons the patient designates shall be sent the documents.

Sec. 434. (1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment as defined in section 401.

(2) The petition shall contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, and, if known, the name and address of the nearest relative or guardian, or, if none, a friend, if known, of the individual.

(3) The petition shall be accompanied by the clinical certificate of a physician or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, an affidavit setting forth the reasons an examination could not be secured shall also be filed. The petition may also be

accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate shall have been executed by a psychiatrist.

(4) Except as otherwise provided in section 455, a clinical certificate that accompanies a petition shall have been executed within 72 hours before the filing of the petition, and after personal examination of the individual.

Sec. 435. (1) If the petition is accompanied by 1 clinical certificate, the court shall order the individual to be examined by a psychiatrist.

(2) If the petition is not accompanied by a clinical certificate, and if the court is satisfied a reasonable effort was made to secure an examination, the court shall order the individual to be examined by a psychiatrist and either a physician or a licensed psychologist.

(3) The individual may be received and detained at the place of examination as long as necessary to complete the examination or examinations, but not more than 24 hours.

(4) After any examination ordered under this section, the examining physician or licensed psychologist shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted.

(5) If 1 examination was ordered and the examining physician or licensed psychologist reports that execution of a clinical certificate is not warranted, or if 2 examinations were ordered and 1 of the examining physicians or the licensed psychologist reports that execution of a clinical certificate is not warranted, the court shall dismiss the petition or order the individual to be examined by a psychiatrist, or if a psychiatrist is not available, by a physician or licensed psychologist. If a third examination report states that execution of a clinical certificate is not warranted, the court shall dismiss the petition.

Sec. 436. If it appears to the court that the individual will not comply with an order of examination under section 435, the court may order a peace officer to take the individual into protective custody and transport him or her to a preadmission screening unit or hospital designated by the community mental health services program or to another suitable place for the ordered examination or examinations.

Sec. 438. If it appears to the court that the individual requires immediate involuntary mental health treatment in order to prevent physical harm to himself or herself, or others, the court may order the individual hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program. If the preadmission screening unit authorizes hospitalization, the peace officer shall transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the preadmission screening unit. If the examinations and clinical certificates of the psychiatrist, and the physician or the licensed psychologist, are not completed within 24 hours after hospitalization, the individual shall be released.

Sec. 448. (1) Not later than 12 hours after an individual is hospitalized under section 423 or 438, the hospital director shall ensure that the individual receives all of the following:

(a) A copy of the application or petition that asserted that the individual is a person requiring treatment.

(b) A written statement explaining that the individual will be examined by a psychiatrist within 24 hours after his or her hospitalization, excluding legal holidays.

(c) A written statement in simple terms explaining the rights of the individual to a full court hearing pursuant to sections 451 to 465, to be present at the hearing, to be represented by legal counsel, to a jury trial, and to an independent clinical evaluation.

(2) If the individual is unable to read or understand the written materials, every effort shall be made to explain them to him or her in a language he or she understands, and a note of the explanation and by whom made shall be entered into his or her patient record.

(3) An individual awaiting a court hearing mandated pursuant to section 452 may sign a form provided by the department accepting psychotropic drugs and other treatment without having to consent to the hospitalization, unless the hospital director has reason to believe the individual is not capable of giving informed consent to treatment.

Sec. 449. The hospital director shall ensure that an individual who is hospitalized pursuant to section 423 or 438 receives a copy of each clinical certificate executed in connection with the individual's hospitalization. Each clinical certificate shall be delivered to the individual within 24 hours of either the clinical certificate's completion or the receipt of the clinical certificate by the hospital.

Sec. 451. Court hearings convened under authority of this chapter shall be governed by sections 452 to 465.

Sec. 452. The court shall fix a date for every hearing convened under this chapter. The hearing shall be convened promptly, but not more than 7 days, excluding Sundays and holidays, after the court's receipt of any of the following:

(a) An application for hospitalization, which shall serve as a petition for a determination that an individual is a person requiring treatment, a clinical certificate executed by a physician or a licensed psychologist, and a clinical certificate executed by a psychiatrist.

(b) A petition for a determination that an individual is a person requiring treatment, a clinical certificate executed by a physician or a licensed psychologist, and a clinical certificate executed by a psychiatrist.

(c) A petition for a determination that an individual continues to be a person requiring treatment and a clinical certificate executed by a psychiatrist.

(d) A petition for discharge filed under section 484.

(e) A petition for discharge filed under section 485 and a physician's or a licensed psychologist's clinical certificate.

(f) A demand or notification that a hearing that has been temporarily deferred under section 455(5) be convened.

Sec. 453. (1) The court shall cause notice of a petition and of the time and place of any hearing to be given to the subject of the petition, his or her attorney, the petitioner, the prosecuting or other attorney provided for in section 457, the hospital director of any hospital in which the subject of a petition is hospitalized, the spouse of the subject of the petition if his or her whereabouts are known, the guardian, if any, of the subject of the petition, and other relatives or persons as the court may determine. Notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(2) Within 4 days of the court's receipt of the documents described in section 452(b), the court shall cause the subject of the petition to be given a copy of the petition, a copy of each clinical certificate executed in connection with the proceeding, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical evaluation.

Sec. 454. (1) Every individual who is the subject of a petition is entitled to be represented by legal counsel.

(2) Unless an appearance has been entered on behalf of the subject of a petition, the court shall, within 48 hours after its receipt of any petition together with the other documents required by section 452, appoint counsel to represent the subject of the petition, except that if an individual has been hospitalized under section 423 or 438, counsel shall be appointed within 24 hours after the hospitalization.

(3) If, after consultation with appointed counsel, the subject of a petition desires to waive his or her right to counsel, he or she may do so by notifying the court in writing.

(4) If the subject of a petition prefers counsel other than the initially appointed counsel, the preferred counsel agrees to accept the appointment, and the court is notified of the preference by the subject of the petition or the preferred counsel, the court shall replace the initially appointed counsel with the preferred counsel.

(5) If the subject of a petition is indigent, the court shall compensate appointed counsel from court funds in an amount that is reasonable and based upon time and expenses.

(6) The supreme court may, by court rule, establish the compensation to be paid for counsel of indigents and may require that counsel be appointed from a system or organization established for the purpose of providing representation in proceedings governed by this chapter.

(7) Legal counsel shall consult in person with the subject of a petition at least 24 hours before the time set for a court hearing.

(8) Legal counsel for the subject of a petition under section 452(a) or (b) who is hospitalized pending the court hearing shall consult in person with the individual not more than 72 hours, excluding Sundays and holidays, after the petition and 2 clinical certificates have been filed with the court.

(9) After the consultation required in subsection (7) or (8), counsel promptly shall file with the court a certificate stating that he or she personally has seen and has consulted with the subject of a petition as required by this section.

Sec. 455. (1) The subject of a petition has the right to be present at all hearings. This right may be waived by a waiver of attendance signed by the subject of a petition, witnessed by his or her legal counsel, and filed with the court or it may be waived in open court at a scheduled hearing. The subject's right to be present at a hearing is considered waived by the subject's failure to attend the hearing after receiving notice required by section 453 and any applicable court rule, providing the subject has had an opportunity to consult with counsel as required under section 454. The court may exclude the subject from a hearing if the subject's behavior at the hearing makes it impossible to conduct the hearing. The court shall enter on the record its reasons for excluding the subject of a petition from the hearing. The subject's presence may be waived by the court if there is testimony by a physician or licensed psychologist who has recently observed the subject that the subject's attendance would expose him or her to serious risk of physical harm.

(2) The subject of a petition under section 452(a) or (b) who is hospitalized pending the court hearing, within 72 hours, excluding Sundays and holidays, after the petition and clinical certificates have been filed with the court, shall

meet with legal counsel, a treatment team member assigned by the hospital director, a person assigned by the executive director of the responsible community mental health services program, and, if possible, a person designated by the subject of the petition, in order to be informed of all of the following:

(a) The proposed plan of treatment in the hospital.

(b) The nature and possible consequences of commitment procedures.

(c) The proposed plan of treatment in the community consisting of either an alternative to hospitalization or a combination of hospitalization and alternative treatment with hospitalization not to exceed 60 days.

(d) The right to request that the hearing be temporarily deferred, with a continuing right to demand a hearing during the deferral period. The deferral period shall be 60 days if the individual chooses to remain hospitalized, or 90 days if the individual chooses alternative treatment or a combination of hospitalization and alternative treatment.

(3) The person designated by the subject of the petition under subsection (2) may be any person who is willing and able to attend the meeting, including a representative of an advocacy group or the recipient rights adviser of the hospital.

(4) The hospital in which the subject of a petition under section 452(a) or (b) is hospitalized shall notify the participants of the meeting required by subsection (2).

(5) The subject of a petition under section 452(a) or (b) who is hospitalized pending the court hearing may file with the court a request to temporarily defer the hearing for not longer than 60 days if the individual chooses to remain hospitalized, or 90 days if the individual chooses alternative treatment or a combination of hospitalization and alternative treatment. The request shall include a stipulation that the individual agrees to remain hospitalized and to accept treatment as may be prescribed for the deferral period, or to accept and follow the proposed plan of treatment as described in subsection (2)(c) for the deferral period, and further agrees that at any time the individual may refuse treatment and demand a hearing under section 452. The request to temporarily defer the hearing shall be on a form provided by the department and signed by the individual in the presence of his or her legal counsel and shall be filed with the court by legal counsel.

(6) Upon receipt of the request and stipulation, the court shall temporarily defer the hearing. During the deferral period, both the original petition and the clinical certificates remain valid. However, if the hearing is convened, the court may require additional clinical certificates and information from the provider. The court shall retain continuing jurisdiction during the deferral period.

(7) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (5), if the individual has agreed to remain hospitalized as described in subsection (2)(a) or (c), the hospital director shall treat the individual as a formal voluntary patient without requiring the individual to sign formal voluntary admission forms. If the individual, at any time during the period in which the hearing is being deferred, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease, the hospitalized individual shall remain hospitalized with the status of the subject of a petition under section 452(a) or (b), and the court shall be notified to convene a hearing under section 452(f).

(8) Upon receipt of a copy of the request to temporarily defer the hearing under subsection (5), if the individual has agreed to participate in an alternative to hospitalization in the community, the hospital director shall release the individual from the hospital to the alternative treatment provider. If the individual, at any time during the deferral period, refuses the prescribed treatment or requests a hearing, either in writing or orally, treatment shall cease and the court shall be notified to convene a hearing under section 452(f). Upon notification, the court shall, if necessary, order a peace officer to transport the individual to the hospital where the individual shall remain until the hearing is convened. The individual shall be given the status of the subject of a petition under section 452(a) or (b).

(9) If the individual has remained hospitalized and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the hospital director believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to sign a formal voluntary admission request or is considered by the hospital not to be suitable for voluntary admission, the hospital director shall notify the court to convene a hearing under section 452(f).

(10) If the individual is participating in an alternative to hospitalization in the community as described in subsection (2)(c) and if, not earlier than 14 days nor later than 7 days before the expiration of the deferral period, the executive director of the community mental health services program responsible for the treatment that is an alternative to hospitalization believes that the condition of the individual is such that he or she continues to require treatment, and believes that the individual will not agree to accept treatment voluntarily or is considered by the alternative treatment program provider not suitable for voluntary treatment, the executive director shall notify the court to convene a hearing under section 452(f).

Sec. 461. An individual may not be found to require treatment unless at least 1 physician or licensed psychologist who has personally examined that individual testifies in person or by written deposition at the hearing. A written deposition may be introduced as evidence at the hearing only if the attorney for the subject of the petition was given



the opportunity to be present during the taking of the deposition and to cross-examine the deponent. This testimony or deposition may be waived by the subject of a petition. An individual may be found to require treatment even if the petitioner does not testify, as long as there is competent evidence from which the relevant criteria in section 401 can be established.

Sec. 462. (1) Requests for continuances for any reasonable time shall be granted for good cause.

(2) Unless the subject of a petition or his or her attorney objects, the failure to timely notify a spouse, guardian, relative, or other person determined by the court to be entitled to notice shall not be cause to adjourn or continue a hearing.

Sec. 463. (1) If requested before the first scheduled hearing or at the first scheduled hearing before the first witness has been sworn on an application or petition, the subject of a petition in a hearing under this chapter has the right at his or her own expense, or if indigent, at public expense, to secure an independent clinical evaluation by a physician, psychiatrist, or licensed psychologist of his or her choice relevant to whether he or she requires treatment, whether he or she should be hospitalized or receive treatment other than hospitalization, and whether he or she is of legal capacity.

(2) Compensation for an evaluation performed by a physician or a licensed psychologist shall be in an amount that is reasonable and based upon time and expenses.

(3) The independent clinical evaluation described in this section is for the sole use of the subject of the petition. The independent clinical evaluation or the testimony of the individual performing the evaluation shall not be introduced into evidence without the consent of the subject of the petition.

Sec. 464. Copies of court orders issued pursuant to this chapter shall be given to the individual who is the subject of the order; to the individual's guardian, if a guardian has been appointed; to the individual's attorney; to the executive director of the community mental health services program; and to the hospital director of any hospital in which the individual is or will be a patient.

Sec. 468. (1) 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 hospitalized before the hearing, shall order that the person be discharged immediately.

(2) If 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.

(b) Order the individual hospitalized in a private or veterans administration hospital at the request of the individual or his or her family, if private or federal funds are to be utilized and if the hospital agrees. If the individual is hospitalized in a private or veterans administration hospital pursuant to this subdivision, any financial obligation for the hospitalization shall 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 treatment that is an alternative to hospitalization and that is recommended by the community mental health services program.

(d) Order the individual to undergo a program of combined hospitalization and alternative treatment as recommended by the community mental health services program.

Sec. 469. (1) Before ordering a course of treatment, the court shall determine whether an available program of treatment exists for the individual that is an alternative to hospitalization. The court shall not order hospitalization without a thorough consideration of available alternatives. The court shall inquire as to the desires of the individual regarding alternatives to hospitalization.

(2) Before making its decision the court shall review a written report, prepared not more than 15 days before the hearing, assessing the current availability and appropriateness for the individual of treatment programs other than hospitalization, including alternatives available following an initial period of court-ordered hospitalization under section 468(2)(d). To this end the court shall order a report on alternatives to hospitalization, which report shall be prepared by the community mental health services program, court staff, a public or private entity or agency, or a suitable person. Preference with regard to the preparer of the report shall be given to an entity, agency, or a suitable person familiar with the treatment resources in the individual's home community.

(3) If the court finds that a treatment program that is an alternative to hospitalization is adequate to meet the individual's treatment needs and is sufficient to prevent harm or injuries that the individual may inflict upon himself or herself or upon others within the near future, the court shall order the individual to receive that treatment for a period of not more than 90 days.

(4) If the court finds that a treatment program that is an alternative to hospitalization would be adequate to meet the individual's treatment needs following an initial period of hospitalization, and that the program is sufficient to

prevent harm or injuries within the near future that the individual may inflict upon himself or herself or upon others, the court shall order the individual to receive combined hospitalization and alternative treatment for a period of not more than 90 days. The hospitalization portion of the order shall not exceed 60 days. If the individual is hospitalized in a hospital operated by or under contract with the department or community mental health services program, unless the individual is a private-pay patient the decision to release the individual from the hospital to the alternative treatment program shall be a clinical decision made by a psychiatrist designated by the hospital director in consultation with the treatment team designated by the executive director of the community mental health services program responsible for the alternative treatment program. If there is a disagreement between the hospital and executive director regarding the decision to release the individual, an appeal from the decision may be made in writing by either party within 24 hours of the decision to the department director. The department director shall designate the psychiatrist responsible for clinical affairs in the department, or his or her designee who shall also be a psychiatrist, to consider the appropriateness of the release and make a decision within 48 hours after receipt of the written appeal. The decision of the department may be appealed in writing by either party to the court within 24 hours, excluding Sundays and holidays, of the department's decision. The court shall make a decision within 48 hours, excluding Sundays and holidays, after receipt of the appeal. The court shall consider information provided by both parties and may appoint a psychiatrist to provide an independent clinical examination.

(5) For any order of alternative treatment, or for the alternative treatment portion of an order of combined hospitalization and alternative treatment, the court order shall state the community mental health services program that is directed to supervise the individual's alternative treatment program. In the event that private arrangements have been made for the reimbursement of mental health treatment services in an alternative setting, the court shall state on the order the name of the mental health agency or professional responsible for supervising the individual's alternative treatment program.

(6) Before entry of an alternative treatment order, the court shall have received a written report or oral testimony from the agency or mental health professional who is to supervise the individual's alternative treatment program as to the capability of the agency or mental health professional to supervise the alternative treatment.

(7) Upon entry of a combined order of hospitalization and alternative treatment, the court shall order a written report from the agency or independent mental health professional who is to supervise the individual's alternative treatment program as to the capability of the agency or mental health professional to supervise the alternative treatment portion of the order. The report shall be submitted to the court at least 3 days prior to the exit of the individual from the hospital. The hospital shall notify the agency or mental health professional of the anticipated release of the individual at least 5 days prior to the anticipated release date, and shall share relevant information about the individual with the agency or mental health professional for the purpose of providing continuity of treatment.

(8) If it is determined by the agency or mental health professional directed to supervise the individual's alternative treatment program that the individual is not complying with the court order or that the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself or herself or upon others, then the agency or mental health professional shall notify the court immediately of this fact. If it is determined by the individual that the alternative treatment program is not appropriate, then the individual may notify the court immediately of this fact.

(9) During the 90-day period of alternative treatment or combined hospitalization and alternative treatment, if it comes to the attention of the court either that the individual ordered to undergo a program of alternative treatment or combined hospitalization and alternative treatment is not complying with the order, or that the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself or herself or upon others, or that the individual believes that the alternative treatment program is not appropriate, the court, without a hearing and based upon the record and other available information, may do either of the following:

(a) Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the 90-day period.

(b) Enter a new order under section 468 directing that the individual be hospitalized for the remainder of the 90-day period or 60 days, or for the remainder of the 60-day hospitalization portion of the combined order, whichever is shorter. If the individual refuses to comply with the order of hospitalization, the court may direct a peace officer to take the individual into protective custody and transport the individual to a hospital. For the purposes of this chapter, an order of hospitalization issued under this section stands in the place of an order issued under section 472(1).

(10) Before the expiration of a 90-day order of alternative treatment or of combined hospitalization and alternative treatment, if the director of the hospital or the agency or mental health professional directed to supervise the individual's alternative treatment program believes that the individual continues to require treatment, and if the individual is expected to refuse to continue treatment on a voluntary basis when the order expires, then the hospital director, agency, or mental health professional shall petition the court for a determination that the individual continues to be a person requiring treatment and for an order authorizing 1 of the following:

(a) Hospitalization for a period of not more than 90 days from the date of issuance of the second order.

(b) Combined hospitalization and alternative treatment for a period of not more than 1 year from the date of issuance of the second order. The hospitalization portion of the order shall not exceed 90 days.

(c) Alternative treatment for a period of not more than 1 year from the date of issuance of the second order.

(11) Before the expiration of a 1-year order of alternative treatment or of combined hospitalization and alternative treatment made under this section or section 472(2)(b), if the hospital director or the agency or mental health professional directed to supervise the individual's alternative treatment program believes that the individual continues to require treatment, and if the individual is expected to refuse to continue treatment on a voluntary basis when the order expires, then the hospital director, agency, or mental health professional shall petition the court for a determination that the individual continues to be a person requiring treatment and for an order authorizing 1 of the following:

(a) Continuing hospitalization. An order of continuing hospitalization may be for a period of not more than 1 year from the date of issuance of the second order.

(b) Combined hospitalization and alternative treatment for a period of not more than 1 year from the date of issuance of the second order. The hospitalization portion of the order shall not exceed 90 days.

(c) Alternative treatment for a period of not more than 1 year from the date of issuance of the second order.

(12) During the period of the order described in subsection (10)(b) or (11)(b), hospitalization may be used as clinically appropriate and when ordered by a psychiatrist, for a total of not more than 90 days. Unless subsection (14) applies, the decision to hospitalize the individual or to return the individual to the alternative treatment program shall be made by the director of the alternative treatment program. The court shall be notified by the director of the alternative treatment program when the individual is hospitalized for clinical reasons and when the individual is returned to the alternative treatment program, with a statement from a psychiatrist explaining the need for hospitalization or the belief that the individual is now clinically appropriate for return to alternative treatment.

(13) For individuals under an order issued pursuant to subsection (10)(b) or (c) or (11)(b) or (c), a 6-month periodic review shall be conducted as provided in sections 482 and 483, and the individual shall have the right to object to the results of the review as provided in section 484.

(14) During the period of alternative treatment described in subsection (10)(c) or (11)(c) or combined hospitalization and alternative treatment as described in subsection (10)(b) or (11)(b), if it comes to the attention of the court either that the individual is not complying with the order, or that the alternative treatment has not been or will not be sufficient to prevent harm or injuries which the individual may be inflicting upon himself or herself or upon others, or that the individual believes that the alternative treatment program is not appropriate, the court, without a hearing and based upon the record and other available information, may do either of the following:

(a) Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the order as described in subsection (10)(c) or (11)(c).

(b) Enter a new order under section 468 directing that the individual be hospitalized for not more than the remainder of the 90 days of hospitalization as provided for in subsection (10)(a) or (11)(a), or the remainder of the order as described in subsection (10)(b) or (11)(b), whichever is shorter. The decision to release the individual from the hospital to the alternative treatment program shall be a clinical decision made by a psychiatrist designated by the hospital director in consultation with the treatment team designated by the executive director of the community mental health services program. If there is a disagreement between the hospital and the executive director regarding the decision to release the individual, an appeal from the decision may be made in writing by either party within 24 hours of the decision to the department director. The department director shall designate the psychiatrist responsible for clinical affairs in the department, or his or her designee who shall also be a psychiatrist, to consider the appropriateness of the release and make a decision within 48 hours, after receipt of the written appeal. The decision of the department may be appealed in writing by either party to the court within 24 hours, excluding Sundays and holidays, of the department's decision. The court shall make a decision within 48 hours, excluding Sundays and holidays, after receipt of the appeal. The court shall consider information provided by both parties and may appoint a psychiatrist to provide an independent clinical examination. Notice of the return of the individual to the alternative treatment program shall be given to the court. If the individual refuses to comply with the order of hospitalization, the court may direct a peace officer to take the individual into protective custody and transport the individual to the hospital selected.

(15) If an individual is hospitalized under subsection (12) for longer than 10 days, then the individual shall be notified of his or her right to object to the hospitalization. Upon receipt of an objection, the court shall schedule a hearing under section 451 for a determination that the individual continues to be a person requiring treatment.

(16) A petition filed under subsection (10) or (11) shall be filed not less than 14 days before the expiration of an alternative treatment order, or the hospitalization portion or alternative treatment portion of a combined order, whichever is applicable.

(17) Upon expiration of an order issued under subsection (11)(b) or (c), if a person 18 years of age or older believes that an individual continues to require treatment, a petition for a determination that the individual continues to be a person requiring treatment may be filed under section 434.

Sec. 472. (1) An initial order of hospitalization shall be for a period of not more than 60 days.

(2) Before the expiration of a 60-day order of hospitalization, if the hospital director of the hospital under contract with the community mental health services program believes that the condition of a patient is such that the patient continues to require treatment, he or she shall notify the executive director and shall cause a petition to be filed with the court, not less than 14 days before the expiration of the order, for a determination that the patient continues to be a person requiring treatment and for an order authorizing 1 of the following:

(a) Hospitalization for a period of not more than 90 days from the date of issuance of the second order.

(b) Alternative treatment or a program of combined hospitalization and alternative treatment for a period of not more than 1 year.

(3) Before the expiration of a 90-day order of hospitalization, if the hospital director of the hospital under contract with the community mental health services program believes that the condition of the patient is such that the patient continues to be a person requiring treatment, he or she shall notify the executive director and shall cause a petition to be filed with the court for a determination that the patient continues to be a person requiring treatment and for an order authorizing 1 of the following:

(a) Continuing hospitalization. An order of continuing hospitalization may be for a period of time not to exceed 1 year.

(b) Continuing alternative treatment for a period not to exceed 1 year or a continuing program of combined hospitalization and alternative treatment for a period not to exceed 1 year. The hospitalization portion of a combined order shall not exceed 90 days.

(4) A petition filed under subsection (3) shall be filed not less than 14 days before the expiration of the order.

(5) During the period of continuing alternative treatment or continuing hospitalization and alternative treatment described in subsection (3), if it comes to the attention of the court that the individual is not complying with the order or that the alternative treatment has not been or will not be sufficient to prevent harm or injuries that the individual may be inflicting upon himself or herself or upon others, the court, without a hearing and based upon the record and other available information, may order the individual hospitalized for 10 days. Before the expiration of the 10 days, the court shall hold a hearing. If the court finds at the hearing that the individual is no longer a person requiring treatment, the court shall enter a finding to that effect and shall order that the individual is no longer subject to involuntary mental health treatment. If the court finds that the individual continues to be a person requiring treatment, the court shall do either of the following:

(a) Continue the order of alternative treatment or combined hospitalization and alternative treatment for a period not to exceed 1 year.

(b) Issue a new order for continuing alternative treatment for a period not to exceed 1 year or combined hospitalization and alternative treatment for a period not to exceed 1 year. The hospitalization portion of a combined order shall not exceed 90 days.

Sec. 473. A petition for an order authorizing 90-day, 1-year, or continuing involuntary mental health treatment shall contain a statement setting forth the reasons for the hospital director's or the executive director's, or their joint determination that the patient continues to be a person requiring treatment, a statement describing the treatment program provided to the patient, the results of that course of treatment, and a clinical estimate as to the time further treatment will be required. The petition shall be accompanied by a clinical certificate executed by a psychiatrist.

Sec. 476. (1) The hospital director may at any time discharge a voluntarily or judicially hospitalized patient whom the hospital director considers clinically suitable for discharge.

(2) The hospital director shall discharge a patient hospitalized by court order when the patient's mental condition is such that he or she no longer meets the criteria of a person requiring treatment.

(3) If a patient discharged under subsection (1) or (2) has been hospitalized by court order, or if court proceedings are pending, the court shall be notified of the discharge by the hospital.

Sec. 479. All leaves or absences from a hospital, other than release or discharge, and all revocations of leaves and absences under section 408, shall be governed in accordance with rules or procedures established by the department or the hospital; except that a hospital director shall discharge any patient who has been hospitalized subject to an order of continuing hospitalization and who has been on an authorized leave or absence from the hospital for a continuous period of 1 year. Upon such discharge, the hospital director shall notify the court.

Sec. 482. Each individual subject to an order of continuing involuntary mental health treatment has the right to regular, adequate, and prompt review of his or her current status as a person requiring treatment. Six months from the

date of an order of continuing involuntary mental health treatment and every 6 months thereafter, the executive director of the community mental health services program responsible for treatment shall assign a physician or licensed psychologist to review the individual's clinical status as a person requiring treatment.

Sec. 483. (1) The results of each periodic review shall be made part of the individual's record, and shall be filed within 5 days of the review in the form of a written report with the court which last ordered the individual's treatment, and within those 5 days, the executive director shall give notice of the results of the review and information on the individual's right to petition for discharge to the individual, the individual's attorney, the individual's guardian, and the individual's nearest relative or a person designated by the individual.

(2) An individual under an order of continuing involuntary mental health treatment or a person designated by the individual may submit a complaint to the provider of services at any time regarding the quality and appropriateness of the treatment provided. A copy of each complaint and the provider's response to each complaint shall be submitted to the executive director and the court along with the written report required by subsection (1).

Sec. 484. If the report required under section 483 concludes that the individual requires continuing involuntary mental health treatment and the individual or the executive director objects to the conclusions, the individual or the executive director has the right to a hearing and may petition the court for discharge of the individual from the treatment program. This petition shall be presented to the court within 7 days, excluding Sundays and holidays, after the report is received.

Sec. 485. In addition to his or her right to a hearing under section 484, an individual who is the subject of an order of continuing involuntary mental health treatment has the right to a hearing and may petition the court for discharge without leave of court once within each 12-month period from the date of the original order of continuing involuntary mental health treatment. The petition shall be accompanied by a physician's or a licensed psychologist's clinical certificate setting forth the reasons for the physician's or the licensed psychologist's conclusion that the individual no longer is a person requiring treatment. If a physician's or a licensed psychologist's clinical certificate does not accompany the petition because the individual is indigent or is unable for reasons satisfactory to the court to procure a physician's or a licensed psychologist's clinical certificate, the court shall appoint a physician or a licensed psychologist to examine the individual, and the physician or the licensed psychologist shall furnish a clinical certificate to the court. If the physician's or the licensed psychologist's clinical certificate concludes that the individual continues to be a person requiring treatment, the court shall notify the individual of that finding and shall dismiss the petition for discharge.

Sec. 485a. (1) Upon a hearing under section 484 or 485, if the court finds that an individual under an order of continuing involuntary mental health treatment is no longer a person requiring treatment, the court shall enter a finding to that effect and shall order that the individual be discharged.

(2) Upon a hearing under section 484 or 485, if the court finds that an individual under a continuing order of involuntary mental health treatment continues to be a person requiring treatment, and after consideration of complaints submitted under section 483(2), the court may do 1 of the following:

(a) Continue the order.

(b) Issue a new order for continuing hospitalization not to exceed 1 year.

(c) Issue a new order for continuing alternative treatment for a period not to exceed 1 year or combined hospitalization and alternative treatment for a period of time not to exceed 1 year. The hospitalization portion of a combined order shall not exceed 90 days.

Sec. 490. Individuals receiving involuntary mental health treatment under this chapter shall receive a copy of section 489 upon the commencement of involuntary mental health treatment. An individual discharged from a hospital shall receive a copy of section 489 upon request.

Sec. 498a. A minor shall be hospitalized only pursuant to the provisions of this chapter.

Sec. 498b. As used in this chapter, unless the context requires otherwise:

(a) "Court" means the probate court or the court with responsibility with regard to mental health services for the county in which a minor who has requested hospitalization, for whom a request for hospitalization has been made, or who has been hospitalized pursuant to this chapter either resides or was found.

(b) "Minor requiring treatment" means either of the following:

(i) A minor with a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(ii) A minor having a severe or persistent emotional condition characterized by seriously impaired personality development, individual adjustment, social adjustment, or emotional growth, which is demonstrated in behavior symptomatic of that impairment.

Sec. 498c. As used in this chapter, unless the context requires otherwise:

- (a) "Person in loco parentis" means a person who is not the parent or guardian of a minor, but who has either legal custody of a minor or physical custody of a minor and is providing support and care for the minor.
- (b) "State ward" means a state ward as defined in section 2 of the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being section 803.302 of the Michigan Compiled Laws.
- (c) "Suitable for hospitalization" means a determination concerning a minor that all of the following criteria are met:
  - (i) The minor is a minor requiring treatment.
  - (ii) The minor is in need of hospitalization and is expected to benefit from hospitalization.
  - (iii) An appropriate, less restrictive alternative to hospitalization is not available.

Sec. 498d. (1) Subject to section 498e and except as otherwise provided in this chapter, a minor of any age may be hospitalized if both of the following conditions are met:

- (a) The minor's parent, guardian, or a person acting in loco parentis for the minor or, pursuant to subsection (2), the department of social services requests hospitalization of the minor pursuant to this chapter.
  - (b) The minor is found to be suitable for hospitalization.
- (2) The department of social services may request hospitalization of a minor who is 1 of the following:
- (a) Committed to the department of social services under Act No. 220 of the Public Acts of 1935, being sections 400.201 to 400.214 of the Michigan Compiled Laws.
  - (b) A ward of the court under chapter X or XIIA of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 712A.28 of the Michigan Compiled Laws, if the department of social services is specifically empowered to do so by an order of the court.

(c) Committed to the department of social services as described in section 2 of the youth rehabilitation services act, Act No. 150 of the Public Acts of 1974, being section 803.302 of the Michigan Compiled Laws, except that if the minor is residing with his or her custodial parent, the consent of the custodial parent is required.

(3) Subject to sections 498e, 498f, and 498j, a minor 14 years of age or older may be hospitalized if both of the following conditions are met:

- (a) The minor requests hospitalization pursuant to this chapter.
  - (b) The minor is found to be suitable for hospitalization.
- (4) In making the determination of suitability for hospitalization, a minor shall not be determined to be a minor requiring treatment solely on the basis of 1 or more of the following conditions:
- (a) Epilepsy.
  - (b) Developmental disability.
  - (c) Brief periods of intoxication caused by substances such as alcohol or drugs or by dependence upon or addiction to those substances.
  - (d) Juvenile offenses, including school truancy, home truancy, or incorrigibility.
  - (e) Sexual activity.
  - (f) Religious activity or beliefs.
  - (g) Political activity or beliefs.

Sec. 498e. (1) A minor requesting hospitalization or for whom a request for hospitalization was made shall be evaluated to determine suitability for hospitalization pursuant to this section as soon as possible after the request is made.

(2) The executive director of the community mental health services program that is responsible for providing services in the county of residence of a minor requesting hospitalization or for whom a request for hospitalization was made shall evaluate the minor to determine his or her suitability for hospitalization pursuant to this section. In making a determination of a minor's suitability for hospitalization, the executive director shall utilize the community mental health services program's children's diagnostic and treatment service. If a children's diagnostic and treatment service does not exist in the community mental health services program, the executive director shall, through written agreement, arrange to have a determination made by the children's diagnostic and treatment service of another community mental health services program, or by the appropriate hospital.

(3) In evaluating a minor's suitability for hospitalization, the executive director shall do all of the following:

- (a) Determine both of the following:
  - (i) Whether the minor is a minor requiring treatment.
  - (ii) Whether the minor requires hospitalization and is expected to benefit from hospitalization.

(b) Determine whether there is an appropriate, available alternative to hospitalization, and if there is, refer the minor to that program.

(c) Consult with the appropriate school, hospital, and other public or private agencies.

(d) If the minor is determined to be suitable for hospitalization under subdivision (a), refer the minor to the appropriate hospital.

(e) If the minor is determined not to be suitable for hospitalization under subdivision (a), determine if the minor needs mental health services. If it is determined that the minor needs mental health services, the executive director shall offer an appropriate treatment program for the minor, if the program is available, or refer the minor to any other appropriate agency for services.

(f) If a minor is assessed and found not to be clinically suitable for hospitalization, the executive director shall inform the individual or individuals requesting hospitalization of the minor of appropriate available alternative services to which a referral should be made and of the process for a request of a second opinion under subsection (4).

(4) If the children's diagnostic and treatment service of the community mental health services program denies hospitalization, the parent or guardian of the minor may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist as soon as possible. If the conclusion of the second opinion is different from the conclusion of the children's diagnostic and treatment service, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available.

(5) If a minor has been admitted to a hospital not operated by or under contract with the department or a community mental health services program and the hospital considers it necessary to transfer the minor to a hospital under contract with a community mental health services program, the hospital shall submit an application for transfer to the appropriate community mental health services program. The executive director shall determine if there is an appropriate, available alternative to hospitalization of the minor. If the executive director determines that there is an appropriate, available alternative program, the minor shall be referred to that program. If the executive director determines that there is not an appropriate, alternative program, the minor shall be referred to a hospital under contract with the community mental health services program.

(6) Except as provided in subsections (1) and (5), this section only applies to hospitals operated under contract with a community mental health services program.

Sec. 498f. If a minor is referred to a hospital by an executive director pursuant to section 498e, the hospital director may accept the referral and admit the minor, or the hospital director may order an examination of the minor to confirm the minor's suitability for hospitalization. The examination shall begin immediately. If the hospital director confirms the minor's suitability for hospitalization, the minor shall be scheduled for admission to the hospital. If the minor cannot be admitted immediately because of insufficient space in the hospital, the minor shall be placed on a waiting list and the executive director shall provide necessary interim services, including periodic reassessment of the suitability for hospitalization. The minor may be referred to another hospital. If the hospital director does not confirm the minor's suitability for hospitalization, the minor shall be referred to the executive director, who shall offer an appropriate treatment plan for the minor or refer the minor to any other agency for services.

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

(2) If the hospital to which the request for emergency admission is made is not under contract to the community mental health services program, the request for emergency hospitalization shall be made directly to the hospital. If the hospital director agrees that the minor needs emergency admission, the minor shall be hospitalized. If the hospital director does not agree, the person making the request may request hospitalization of the minor under section 498d.

(3) If the hospital to which the request for emergency admission is made is under contract to the community mental health services program, the request shall be made to the preadmission screening unit of the community mental health services program serving in the county where the minor resides. If the community mental health services program has a children's diagnostic and treatment service, the preadmission screening unit shall refer the person making the request to that service. In counties where there is no children's diagnostic and treatment service, the preadmission screening unit shall refer the person making the request to the appropriate hospital. If it is determined that emergency admission is not necessary, the person may request hospitalization of the minor under section 498d. If it is determined that emergency admission is necessary, the minor shall be hospitalized or placed in an appropriate alternative program.

(4) If a minor is assessed by the preadmission screening unit and found not to be clinically suitable for hospitalization, the preadmission screening unit shall inform the individual or individuals requesting hospitalization of the minor of appropriate available alternative services to which a referral should be made and of the process for a request of a second opinion under subsection (5).

(5) If the preadmission screening unit of the community mental health services program denies hospitalization, the parent or guardian of the minor may request a second opinion from the executive director. The executive director shall arrange for an additional evaluation by a psychiatrist, other physician, or licensed psychologist as soon as possible. If the conclusion of the second opinion is different from the conclusion of the preadmission screening unit, the executive director, in conjunction with the medical director, shall make a decision based on all clinical information available.

(6) If a person in loco parentis makes a request for emergency admission and the minor is admitted to a hospital under this section, the hospital director or the executive director of the community mental health services program immediately shall notify the parent or parents or the guardian of the minor.

(7) If a minor is hospitalized in a hospital that is operated under contract with a community mental health services program, the hospital director shall notify the appropriate executive director within 24 hours after the hospitalization occurs.

(8) If a peace officer, as a result of personal observation, has reasonable grounds to believe that a minor is a minor requiring treatment and that the minor presents a serious danger to self or others and if after a reasonable effort to locate the minor's parent, guardian, or person in loco parentis, the minor's parent, guardian, or person in loco parentis cannot be located, the peace officer may take the minor into protective custody and transport the minor to the appropriate community mental health preadmission screening unit, if the community mental health services program has a children's diagnostic and treatment service, or to a hospital if it does not have a children's diagnostic and treatment service. After transporting the minor, the peace officer shall execute a written request for emergency hospitalization of the minor stating the reasons, based upon personal observation, that the peace officer believes that emergency hospitalization is necessary. The written request shall include a statement that a reasonable effort was made by the peace officer to locate the minor's parent, guardian, or person in loco parentis. If it is determined that emergency hospitalization of the minor is not necessary, the minor shall be returned to his or her parent, guardian, or person in loco parentis if an additional attempt to locate the parent, guardian, or person in loco parentis is successful. If the minor's parent, guardian, or person in loco parentis cannot be located, the minor shall be turned over to the protective services program of the department of social services. If it is determined that emergency admission of the minor is necessary, the minor shall be admitted to the appropriate hospital or to an appropriate alternative program. The executive director immediately shall notify the parent, guardian, or person in loco parentis. If the hospital is under contract with the community mental health services program, the hospital director shall notify the appropriate executive director within 24 hours after the hospitalization occurs.

(9) An evaluation of a minor admitted to a hospital under this section shall begin immediately after the minor is admitted. The evaluation shall be conducted in the same manner as provided in section 498e. If the minor is not found to be suitable for hospitalization, the minor shall be released into the custody of his or her parent, guardian, or person in loco parentis and the minor shall be referred to the executive director who shall determine if the minor needs mental health services. If it is determined that the minor needs mental health services, the executive director shall offer an appropriate treatment program for the minor, if the program is available, or refer the minor to another agency for services.

(10) A hospital director shall proceed under either the revised probate code, Act No. 642 of the Public Acts of 1978, being sections 700.1 to 700.933 of the Michigan Compiled Laws, or chapter XIIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.28 of the Michigan Compiled Laws, as warranted by the situation and the best interests of the minor, under any of the following circumstances:

(a) The hospital director cannot locate a parent, guardian, or person in loco parentis of a minor admitted to a hospital under subsection (8).

(b) The hospital director cannot locate the parent or guardian of a minor admitted to a hospital by a person in loco parentis under this section.

Sec. 498k. (1) If a minor who has been admitted to a hospital under this chapter leaves the hospital without the knowledge and permission of the appropriate hospital staff, the hospital shall immediately notify the minor's parent, guardian, or person in loco parentis, the executive director if appropriate, and the appropriate police agency.

(2) If a minor has left a hospital without the knowledge and permission of the appropriate hospital staff or has refused a request to return to the hospital while on an authorized absence from the hospital, and the hospital director believes that the minor should be returned to the hospital, the hospital director shall request that the minor's parent, guardian, or person in loco parentis transport the minor to the hospital. If the parent, guardian, or person in loco parentis is unable, after reasonable effort, to transport the minor, a request may be submitted to the court for an order to transport the minor. If the court is satisfied that a reasonable effort was made to transport the minor, the court shall order a peace officer to take the minor into protective custody for the purpose of returning the minor to the hospital.

(3) An opportunity for appeal, and notice of that opportunity, shall be provided to any minor and to the parent or guardian of any minor who is returned over the minor's objection from any authorized leave in excess of 10 days. In the case of a minor less than 14 years of age, the appeal shall be made by the parent or guardian of the minor or person in loco parentis.



Sec. 498l. (1) Not more than 90 days after the admission of a minor to a hospital pursuant to this chapter, and at 60-day intervals after the expiration of the 90-day period, the director of the hospital shall perform or arrange to have performed a review of the minor's suitability for hospitalization. If the minor is in a hospital under contract with a community mental health services program, the executive director shall participate in the reviews.

(2) Subject to section 114a, the reviews of the minor's suitability for continued hospitalization shall be conducted under rules promulgated by the department. Results of the reviews shall be transmitted promptly to all of the following:

- (a) The minor, if the minor is 14 years of age or older.
- (b) The parent, guardian, or person in loco parentis of the minor.
- (c) The executive director.
- (d) The court, if there was a court hearing on the admission of the minor.

Sec. 498n. (1) Upon receipt of an objection to hospitalization filed under section 498m, the court shall schedule a hearing to be held within 7 days, excluding Sundays and holidays. After receipt of the objection, the court shall notify all of the following persons of the time and place for the hearing:

- (a) The parents or guardian of the minor to whom the objection refers.
- (b) The person filing the objection.
- (c) The minor to whom the objection refers.
- (d) The person who executed the application for hospitalization of the minor.
- (e) The hospital director.
- (f) The executive director.

(2) The court shall sustain an objection to hospitalization and order the discharge of the minor unless the court finds by clear and convincing evidence that the minor is suitable for hospitalization. If the court does not sustain the objection, an order shall not be entered, the objection shall be dismissed, and the hospital shall continue to hospitalize the minor.

(3) The hearing required by subsection (1) shall be governed by sections 451 to 465.

(4) The court shall not dismiss the objection and refuse to order a discharge of a hospitalized minor on the grounds that the minor's parent or guardian is unwilling or unable to provide or arrange for the management, care, or residence of the minor. If an objection is sustained and the minor's parent or guardian is unwilling or unable to provide or arrange for the management, care, or residence of the minor, the objecting person may, or a person authorized by the court shall, file promptly a petition under section 2(b) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, to ensure that the minor is provided with appropriate management, care, or residence.

(5) If a hospital has officially agreed to admit a minor, but admission has been deferred until a subsequent date, an objection to hospitalization of the minor may be made to the court under section 498m before the minor is admitted to the hospital. Subject to section 114a, a minor 14 years of age or older shall be notified of the right to object in accordance with rules promulgated by the department. If the objection is sustained by the court, the minor shall not be hospitalized.

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

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

(3) Upon receipt of notice or an oral request under subsection (1) or (2) by a hospital under contract with the community mental health services program, the hospital director immediately shall notify the executive director.

(4) If notice of intent to terminate hospitalization is received by a hospital under subsection (1) or (2), and the director of the hospital determines that the minor to whom the notice applies should remain in the hospital, the director of the hospital or a person designated by the director of the hospital shall file, within 3 days, excluding Sundays and holidays, after receipt of the notice, a petition with the court requesting an order to continue hospitalization of the minor. The petition shall be accompanied by 1 certificate executed by a child and adolescent psychiatrist and 1 certificate executed by either a physician or a licensed psychologist. If a petition is filed with the court under this subsection, the hospital shall continue to hospitalize the minor pending a court hearing on the petition.

(5) Upon receipt of a petition to continue hospitalization of a minor under subsection (4), the court shall schedule a hearing to be held within 7 days, excluding Sundays and holidays, after receipt of the petition. The hearing shall be convened in accordance with sections 451 to 465.

(6) If the court finds the minor to be suitable for hospitalization by clear and convincing evidence, the court shall order the minor to continue hospitalization for not more than 60 days. If the court does not find by clear and convincing evidence that the minor is suitable for hospitalization, the court shall order the minor discharged from the hospital.

Sec. 498p. (1) Upon periodic review of a hospitalized minor under section 498l, or at any other time, if it is determined that the minor is no longer suitable for hospitalization, the director of the hospital shall discharge the minor from the hospital.

(2) If a minor discharged under subsection (1) has been hospitalized under a court order, or if court proceedings are pending, the court shall be notified of the minor's discharge from the hospital.

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

(4) Before a minor is discharged from a hospital under subsection (1), the executive director, with the assistance of the hospital, shall develop an individualized prerelease plan for the minor in accordance with section 209a.

(5) If the parent or guardian of a minor admitted to a hospital under this chapter refuses to assume custody of the minor upon discharge of the minor from the hospital, the hospital director shall file or cause to be filed a petition in the juvenile division of the probate court alleging that the minor is within the provisions of section 2(b) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, to ensure that the minor is provided with appropriate management, care, and residence. Arrangements considered suitable by the hospital director and agreed to by the parent or guardian for care of the minor outside the home of the parent or guardian do not constitute refusal to assume custody of the minor.

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

(a) "Administrative admission" means the admission of an individual with a developmental disability to a center pursuant to section 509.

(b) "Court" means the probate court or the court with responsibility with regard to mental health matters for the county in which an individual with a developmental disability resides or was found.

(c) "Criteria for judicial admission" means the criteria specified in section 515 for admission of an adult with a developmental disability to a center, private facility, or alternative program of care and treatment under section 518.

(d) "Private facility" means an adult foster care facility operated under contract with a community mental health services program or on a private pay basis that agrees to do both of the following:

(i) Accept the judicial admission of an individual with developmental disability.

(ii) Fulfill the duties of a center as described in this chapter.

Sec. 502. An individual shall be admitted to a center only pursuant to the provisions of this act.

Sec. 503. (1) An individual under 18 years of age shall not be judicially admitted to a center, facility, private facility, or other residential program.

(2) Administrative admission under section 509 is the preferred form of admission for individuals 18 years of age or older.

Sec. 505. (1) Six months prior to the eighteenth birthday of each resident in a center, the resident shall be evaluated by the center for the purpose of determining whether he or she is competent to execute an application for administrative admission.

(2) If it is determined by the center that the resident is not competent to execute an application for administrative admission, or otherwise requires the protective services of a guardian, a parent, or if none, another interested person or entity, the parent, guardian, or interested party shall be notified and requested to file a petition for the appointment of a plenary or partial guardian. If a petition is not filed, the center may, but need not, file a petition.

Sec. 508. (1) An individual with a developmental disability referred by a community mental health services program may be temporarily admitted to a center for appropriate clinical services if an application for temporary admission is executed by a person legally empowered to make the application and if it is determined that the individual is suitable for admission. The services to be provided to the individual shall be determined by mutual agreement between the community mental health services program, the center, and the person making the application, except that no individual may be temporarily admitted for more than 30 days.

(2) An application for temporary admission shall contain the substance of subsection (1).

Sec. 509. (1) An individual with a developmental disability under 18 years of age shall be referred by a community mental health services program before being considered for administrative admission to a center. An application for the

individual's admission shall be executed by a parent, guardian, or, in the absence of a parent or guardian, a person in loco parentis if it is determined that the minor is suitable for admission.

(2) An individual with a developmental disability who is 18 years of age or older and is referred by a community mental health services program may be admitted to a center on an administrative admission basis if an application for the individual's admission is executed by the individual if competent to do so, or by a guardian if the individual is not competent to do so, and if it is determined that the individual is suitable for admission.

(3) An application for administrative admission shall contain in large type and simple language the substance of sections 510, 511, and 512. At the time of admission, the rights set forth in the application shall be explained to the resident and to the person who executed the application for admission. In addition, a copy of the application shall be given to the resident, the person who executed the application, and to 1 other person designated by the resident.

Sec. 510. (1) Prior to the administrative admission of any individual, the individual may be received by the center designated and approved by the community mental health services program for up to 10 days in order for a preadmission examination to be conducted. No individual may be administratively admitted unless the individual was referred by the community mental health services program and was given a preadmission examination by the center for the purpose of determining the individual's suitability for admission.

(2) The preadmission examination shall include mental, physical, social, and educational evaluations, and shall be conducted under the supervision of a registered nurse or other mental health professional possessing at least a master's degree. The results of the examination shall be contained in a report to be made part of the individual's record, and the report shall also contain a statement indicating the most appropriate living arrangement that is necessary to meet the individual's treatment needs.

(3) At least once annually each administratively admitted resident shall be reexamined for the purpose of determining whether he or she continues to be suitable for admission.

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

(2) An objection shall be made in writing, except that if made by the resident, an objection to admission may be communicated to the court or judge of probate and the executive director of the community mental health services program by any means, including but not limited to oral communication or informal letter. If the resident informs the center that he or she desires to object to the admission, the center shall assist the resident in submitting his or her objection to the court.

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

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

(5) The court shall sustain the objection and order the discharge of the resident if the resident is not in need of the care and treatment that is available at the center or if an alternative to the care and treatment provided in a center is available and adequate to meet the resident's needs.

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

(7) Unwillingness or inability of the parent, guardian, or person in loco parentis to provide for the resident's management, care, or residence shall not be grounds for refusing to sustain the objection and order discharge, but in that event the objecting person may, or a person authorized by the court shall, promptly file a petition under section 637 or, if the resident is a juvenile, under section 2 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, to ensure that suitable management, care, or residence is provided.

Sec. 512. (1) A center may detain an administratively admitted resident for a period not exceeding 3 days from the time that the person who executed the application for the resident's admission gives written notice to the center of his or her intention that the resident leave the center.

(2) When a center is notified of a resident's intention to leave the center, it shall promptly supply an appropriate form to the person who made the notification and notify the appropriate community mental health services program.

Sec. 515. A court may order the admission of an individual 18 years of age or older who meets both of the following requirements:

- (a) Has been diagnosed as an individual with mental retardation.
- (b) Can be reasonably expected within the near future to intentionally or unintentionally seriously physically injure himself or herself or another person, and has overtly acted in a manner substantially supportive of that expectation.

Sec. 516. (1) Any person found suitable by the court may file with the court a petition that asserts that an individual meets the criteria for judicial admission specified in section 515.

(2) The petition shall contain the alleged facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to alleged and relevant facts, and if known the name and address of the nearest relative or guardian of the individual.

(3) If the petition appears on its face to be sufficient, the court shall order that the individual be examined and a report be prepared. To this end, the court shall appoint a qualified person who may but need not be an employee of the community mental health services program or the court to arrange for the examination, to prepare the report, and to file it with the court.

(4) If it appears to the court that the individual will not comply with an order of examination under subsection (3), the court may order a peace officer to take the individual into protective custody and transport him or her immediately to a center recommended by the community mental health services program or other suitable place designated by the community mental health services program for up to 48 hours for the ordered examination.

(5) After examination, the individual shall be allowed to return home unless it appears to the court that he or she requires immediate admission to the community mental health services program's recommended center in order to prevent physical harm to himself or herself or others pending a hearing, in which case the court shall enter an order to that effect. If an individual is ordered admitted under this subsection, not later than 12 hours after he or she is admitted the center shall provide him or her with a copy of the petition, a copy of the report, and a written statement in simple terms explaining the individual's rights to a hearing under section 517, to be present at the hearing and to be represented by legal counsel, if 1 physician and 1 licensed psychologist or 2 physicians conclude that the individual meets the criteria for judicial admission.

(6) The report required by subsection (3) shall contain all of the following:

- (a) Evaluations of the individual's mental, physical, social, and educational condition.
- (b) A conclusion as to whether the individual meets the criteria for judicial admission specified in section 515.
- (c) A list of available forms of care and treatment that may serve as an alternative to admission to a center.
- (d) A recommendation as to the most appropriate living arrangement for the individual in terms of type and location of living arrangement and the availability of requisite support services.
- (e) The signatures of 1 physician and 1 licensed psychologist or 2 physicians who performed examinations serving in part as the basis of the report.

(7) A copy of the report required under subsection (3) shall be sent to the court immediately upon completion.

(8) The petition shall be dismissed by the court unless 1 physician and 1 licensed psychologist or 2 physicians conclude, and that conclusion is stated in the report, that the individual meets the criteria for judicial admission.

(9) An individual whose admission was ordered under subsection (5) is entitled to a hearing in accordance with section 517.

Sec. 517. (1) Hearings convened to determine whether an individual meets the criteria for judicial admission shall be governed by sections 517 to 522. Sections 517 to 522 do not apply to the hearing provided for in section 511 concerning an objection to an administrative admission.

(2) Upon receipt of a petition and a report as provided for in section 516 or 532, or receipt of a petition as provided for in section 531, the court shall do all of the following:

(a) Fix a date for a hearing to be held within 7 days, excluding Sundays or holidays, after the court's receipt of the documents or document.

(b) Fix a place for a hearing, either at a center or other convenient place, within or outside of the county.

(c) Cause notice of a petition and of the time and place of any hearing to be given to the individual asserted to meet the criteria for judicial admission, his or her attorney, the petitioner, the prosecuting or other attorney specified in subsection (4), the community mental health services program, the director of any center to which the individual is admitted, the individual's spouse if his or her whereabouts are known, the guardian, if any, of the individual, and other relatives or persons as the court may determine. The notice shall be given at the earliest practicable time and sufficiently in advance of the hearing date to permit preparation for the hearing.

(d) Cause the individual to be given within 4 days of the court's receipt of the documents described in section 516 a copy of the petition, a copy of the report, unless the individual has previously been given a copy of the petition and the report, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical or psychological evaluation.

(e) Subsequently give copies of all orders to the persons identified in subdivision (c).

(3) The individual asserted to meet the criteria for judicial admission is entitled to be represented by legal counsel in the same manner as counsel is provided under section 454, and is entitled to all of the following:

(a) To be present at the hearing.

(b) To have upon demand a trial by jury of 6.

(c) To obtain a continuance for any reasonable time for good cause.

(d) To present documents and witnesses.

(e) To cross-examine witnesses.

(f) To require testimony in court in person from 1 physician or 1 licensed psychologist who has personally examined the individual.

(g) To receive an independent examination by a physician or licensed psychologist of his or her choice on the issue of whether he or she meets the criteria for judicial admission.

(4) The prosecuting attorney of the county in which a court has its principal office shall participate, either in person or by assistant, in hearings convened by the court of his or her county under this chapter, except that a prosecutor need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for a finding that the individual meets the criteria for judicial admission.

(5) Unless the individual or his or her attorney objects, the failure to timely notify a spouse, guardian, or other person determined by the court to be entitled to notice is not cause to adjourn or continue any hearing.

(6) The individual, any interested person, or the court on its own motion may request a change of venue because of residence; convenience to parties, witnesses, or the court; or the individual's mental or physical condition.

Sec. 518. (1) If the court finds that an individual does not meet the criteria for judicial admission, the court shall enter a finding to that effect, shall dismiss the petition, and shall direct that the individual be discharged if he or she has been admitted to a center prior to the hearing.

(2) If the individual is found to meet the criteria for judicial admission, the court shall do 1 of the following:

(a) Order the individual to be admitted to a center designated by the department and recommended by the community mental health services program.

(b) Order the individual to be admitted to a licensed hospital at the request of the individual or his or her family member, if private funds are to be utilized and the private facility complies with all of the admission, continuing care, and discharge duties and requirements described in this chapter for centers.

(c) Order the individual to undergo a program for 1 year of care and treatment recommended by the community mental health services program as an alternative to being admitted to a center.

Sec. 519. (1) Prior to making an order of disposition pursuant to section 518(2), the court shall consider ordering a course of care and treatment that is an alternative to admission to a center. To that end, the court shall review the report submitted to it pursuant to section 516(6)(c) and (d).

(2) If the court finds that a program of care and treatment other than admission to a center is adequate to meet the individual's care and treatment needs and is sufficient to prevent harm or injury which the individual may inflict upon himself or herself or others, the court shall order the individual to receive whatever care and treatment is appropriate under section 518(2)(c).

(3) If at the end of one year it is believed that the individual continues to meet the criteria for judicial admission, a new petition may be filed under section 516.

(4) If at any time during the 1-year period it comes to the attention of the court either that an individual ordered to undergo a program of alternative care and treatment is not complying with the order or that the alternative care and treatment has not been sufficient to prevent harm or injuries which the individual may be inflicting upon himself or herself or others, the court may without a hearing and based upon the record and other available information do either of the following:

(a) Consider other alternatives to admission to a center, modify its original order, and direct the individual to undergo another program of alternative care and treatment for the remainder of the 1-year period.

(b) Enter a new order pursuant to section 518(2)(a) or (b) directing that the individual be admitted to a center recommended by the community mental health services program. If the individual refuses to comply with this order, the court may direct a peace officer to take the individual into protective custody and transport him or her to the center recommended by the community mental health services program.

Sec. 520. Prior to ordering the admission of an individual, the court shall inquire into the adequacy of care and treatment to be provided to the individual by the designated center. Admission shall not be ordered unless the recommended center to which the individual is to be admitted can provide the individual with care and treatment that is adequate and appropriate to his or her condition.

Sec. 521. Preference between the center recommended by the community mental health services program and other available facilities under contract with the community mental health services program shall be given to the facility that can appropriately meet the individual's needs in the least restrictive environment and that is located nearest to the individual's residence. If the individual requests it or there are other compelling reasons for an order reversing the preference, the community mental health services program may place the individual in a facility that is not the nearest to the individual's residence.

Sec. 522. An independent medical or licensed psychological examiner appointed for an individual under this chapter shall, if the individual is indigent, be compensated by the county's community mental health services program in an amount that is reasonable and based upon time and expenses.

Sec. 525. (1) The director of a center may at any time discharge an administratively or judicially admitted resident whom the director considers suitable for discharge.

(2) The director of a center shall discharge a resident admitted by court order when the resident no longer meets the criteria for judicial admission.

(3) If a resident discharged under subsection (1) or (2) has been admitted to a center by court order, or if court proceedings are pending, both the court and the community mental health services program shall be notified of the discharge by the center.

Sec. 527. If, upon the discharge of an individual admitted by court order or upon termination of alternative care and treatment to an individual receiving care and treatment under section 518(2), the community mental health services program determines that the individual would benefit from the receipt of further care and treatment, it shall make arrangements with the center or provider of alternative care and treatment to continue to provide appropriate care and treatment to the individual on an administrative basis, or it shall assist the individual to obtain appropriate care and treatment from another source.

Sec. 528. (1) Except as provided in subsection (2), all leaves or absences from a center other than release or discharge and all revocations of leaves and absences under section 537 shall be governed in accordance with rules or procedures established by the department or, in the case of a private facility, in accordance with procedures of its governing board.

(2) A resident who has been admitted subject to a court order and who has been on an authorized leave or absence from the center for a continuous period of 1 year shall be discharged. Upon the discharge, the court shall be notified by the center.

Sec. 531. (1) Every resident admitted by court order has the right to regular, adequate, and prompt review of his or her current status as an individual meeting the criteria for judicial admission. Six months after the date of an order of judicial admission, and every 6 months after that, the director of a center to which a resident was admitted shall review the resident's status as an individual meeting the criteria for judicial admission.

(2) The results of each periodic review shall be made part of the resident's record, and shall be filed within 5 days of the review in the form of a written report with the court that ordered the resident's admission, and within the 5 days, notice of the results of the review shall be given by the facility to the resident, his or her attorney, and his or her nearest relative or guardian.

(3) If the report concludes that the resident continues to meet the criteria for judicial admission, and the resident or someone on his or her behalf objects to that conclusion, the resident has the right to a hearing and all other rights expressed or implied in sections 517 to 522 and may petition the court for discharge. The petition shall be presented to the court or a representative of the center within 7 days, excluding Sundays and holidays, after the report is received. If the petition is presented to a representative of the center, the representative shall transmit it to the court immediately.

Sec. 532. In addition to the right to a hearing under section 531, a resident admitted by court order has the right to a hearing and may petition the court for discharge without leave of court once within each 12-month period from the date of the original order of admission. The petition shall be accompanied by a physician's or a licensed psychologist's report setting forth the reasons for the physician's or licensed psychologist's conclusion that the resident no longer meets the criteria for judicial admission. If no report accompanies the petition because the resident is indigent or is unable for reasons satisfactory to the court to procure a report, the court shall appoint a physician or a licensed psychologist to examine the resident, and the physician or licensed psychologist shall furnish a report to the court. If the report concludes that the resident continues to meet the criteria for judicial admission, the court shall so notify the resident and shall dismiss the petition for discharge. If the report concludes otherwise, a hearing shall be held pursuant to sections 517 to 522.

Sec. 536. (1) A resident in a center may be transferred to any other center, or to a hospital operated by the department, if the transfer would not be detrimental to the resident and the responsible community mental health services program approves the transfer.

(2) The resident and his or her nearest relative or guardian shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if necessitated by an emergency. In addition, the resident may designate 2 other persons to receive the notice. If the resident, his or her nearest relative, or guardian objects to the transfer, the department shall provide an opportunity to appeal the transfer.

(3) If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer.

Sec. 537. (1) An individual is subject to being returned to a center if both of the following are true:

(a) The individual was admitted to a center on an application executed by someone other than himself or herself or by judicial order.

(b) The individual has left the center without authorization, or has refused a lawful request to return to the center while on an authorized leave or other authorized absence from the center.

(2) The center may notify peace officers that an individual is subject to being returned to the center. Upon notification, a peace officer shall take the individual into protective custody and return him or her to the center unless contrary directions have been given by the center or the responsible community mental health services program.

(3) An opportunity for appeal shall be provided to any individual returned over his or her objection from any authorized leave in excess of 10 days, and the individual shall be notified of his or her right to appeal. In the case of a child less than 13 years of age, the appeal shall be made by his or her parent or guardian.

Sec. 540. (1) A determination that an individual meets the criteria for judicial admission, a court order directing that an individual be admitted to a center or receive alternative care and treatment, or any form of admission to a private facility shall not give rise to a presumption of, constitute a finding of, or operate as an adjudication of legal incompetence.

(2) An order of commitment under any previous statute of this state shall not, in the absence of a concomitant appointment of a guardian, constitute a finding of or operate as an adjudication of legal incompetence.

Sec. 541. An individual admitted to a center shall at the time of admission receive a copy of section 540. An individual discharged from a center shall receive a copy of section 540 upon request.

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

(a) "Facility" means all of the following that regularly admit individuals with developmental disability and provide residential and other services:

(i) A facility as defined in section 100b.

(ii) A child caring institution, a boarding school, a convalescent home, a nursing home or home for the aged, or a community residential program.

(b) "Court" means the probate court or the court with responsibility with regard to mental health services for the county of residence of an individual with developmental disability, or for the county in which the individual was found if a county of residence cannot be determined.

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

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

(e) "Partial guardian" means a guardian who possesses fewer than all of the legal rights and powers of a plenary guardian, and whose rights, powers, and duties have been specifically enumerated by court order.

(f) "Respondent" means the individual who is the subject of a petition for guardianship filed under this chapter.

Sec. 602. (1) Guardianship for individuals with developmental disability shall be utilized only as is necessary to promote and protect the well-being of the individual, including protection from neglect, exploitation, and abuse; shall take into account the individual's abilities; shall be designed to encourage the development of maximum self-reliance and independence in the individual; and shall be ordered only to the extent necessitated by the individual's actual mental and adaptive limitations.

(2) If the court determines that some form of guardianship is necessary, partial guardianship is the preferred form of guardianship for an individual with a developmental disability.

Sec. 607. (1) A court, upon filing of a petition for guardianship under this chapter and before the appointment of a plenary or partial guardian, or pending an appeal or action in relation to the appointment, under emergency circumstances and if necessary for the welfare or protection of an individual with a developmental disability, may temporarily exercise the powers of a guardian over an individual with a developmental disability, or may appoint a temporary guardian whose powers and duties shall be specifically enumerated by court order.

(2) If the court, under subsection (1), exercises the powers of a guardian or appoints a temporary guardian before the appointment of a plenary or partial guardian, a hearing on the petition for guardianship shall be held within 14 days, or at a time fixed under section 614, whichever is earlier.

(3) If the court, under subsection (1), exercises the powers of a guardian or appoints a temporary guardian pending an appeal or action in relation to the appointment of a guardian under this chapter, a hearing shall be held within 14 days to determine whether the individual is in need of the services of a guardian for the individual's welfare or protection during the pendency of the appeal or action. If the court determines by clear and convincing evidence that a need exists, the court may appoint a temporary guardian whose powers and duties shall be specifically enumerated by court order and whose authority shall expire upon resolution of the appeal or action.

(4) At a hearing held under either subsection (2) or (3), a respondent shall have all the rights and privileges otherwise available to an individual subject to proceedings under this chapter.

Sec. 612. (1) The petition for the appointment of a guardian for an individual who has a developmental disability shall be accompanied by a report that contains all of the following:

(a) A description of the nature and type of the respondent's developmental disability.

(b) Current evaluations of the respondent's mental, physical, social, and educational condition, adaptive behavior, and social skills. These evaluations shall take into account the individual's abilities.

(c) An opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and a specific statement of the reasons for the guardianship.

(d) A recommendation as to the most appropriate rehabilitation plan and living arrangement for the individual and the reasons for the recommendation.

(e) The signatures of all individuals who performed the evaluations upon which the report is based. One of the individuals shall be a physician or psychologist who, by training or experience, is competent in evaluating individuals with developmental disabilities.

(f) A listing of all psychotropic medications, plus all other medications the respondent is receiving on a continuous basis, the dosage of the medications, and a description of the impact upon the respondent's mental, physical and educational conditions, adaptive behavior, and social skills.

(2) Psychological tests upon which an evaluation of the respondent's mental condition have been based may be performed up to 1 year before the filing of the petition.

(3) If a report does not accompany the petition, the court shall order appropriate evaluations to be performed by qualified individuals who may be employees of the state, the county, the community mental health services program, or the court. The court may order payment for evaluations of respondents by a public agency that treats or serves the developmentally disabled. State compensation for evaluations paid for by public mental health agencies shall be determined under sections 302 to 310, and sections 800 to 842. Compensation for an evaluation shall be in an amount that is reasonable and based upon time and expenses. The report shall be prepared and filed with the court not less than 10 days before the hearing.

(4) A report prepared under this section shall not be made part of the public record of the proceedings but shall be available to the court or an appellate court to which the proceedings may be appealed, to the respondent, the petitioner, their attorneys, and to other individuals the court directs.



Sec. 620. (1) A court order establishing partial guardianship shall contain findings of fact, shall define the powers and duties of the partial guardian so as to permit the individual with a developmental disability to care for himself or herself and his or her property commensurate with his or her ability to do so, and shall specify all legal disabilities to which the individual is subject.

(2) An individual with a developmental disability for whom a partial guardian has been appointed retains all legal and civil rights except those that have by court order been designated as legal disabilities or that have been specifically granted to the partial guardian by the court.

(3) The appointment of a partial guardian under this chapter does not constitute a finding of legal incompetence or incapacity except in those areas specified by the court.

Sec. 623. (1) A guardian, whether plenary or partial, appointed under this chapter shall not have the power, unless specified by court order, to place an individual with a developmental disability in a facility.

(2) Before authorizing the placement of a respondent in a facility, the court shall inquire into and determine the appropriateness of the placement.

(3) Before authorizing a guardian to make application to place an individual with a developmental disability in a facility, the court shall determine, in conjunction with the appropriate community mental health services program, whether the placement offers appropriate treatment and residential programs to meet the needs of the respondent and whether there is a less restrictive treatment and residential program available. In ordering a placement, the court shall give preference to an available less restrictive treatment and residential program provided that it is adequate and appropriate to meet the respondent's needs. The court or counsel may request reports from public agencies on the suitability of a particular placement for a respondent.

Sec. 628. (1) The court may appoint as guardian of an individual with a developmental disability any suitable individual or agency, public or private, including a private association capable of conducting an active guardianship program for an individual with a developmental disability. The court shall not appoint the department of mental health as guardian or any other agency, public or private, that is directly providing services to the individual, unless no other suitable individual or agency can be identified. In such instances, guardianship by the provider shall only continue until such time as a more suitable individual or agency can be appointed.

(2) Before the appointment, the court shall make a reasonable effort to question the individual concerning his or her preference regarding the person to be appointed guardian, and any preference indicated shall be given due consideration.

Sec. 637. (1) A guardian for an individual with a developmental disability or the individual's estate who was appointed before the effective date of this act under former chapter 3 of Act No. 288 of the Public Acts of 1939 or a guardian appointed under this chapter may be discharged, or have his or her duties modified, when the individual's capacity to perform the tasks necessary for the care of his or her person or the management of his or her estate have changed so as to warrant modification or discharge. The individual with a developmental disability, the individual's guardian, or any interested person on his or her behalf may petition the court for a discharge or modification order under this section.

(2) A request under subsection (1), if made by the individual with a developmental disability, may be communicated to the court by any means, including oral communication or informal letter. Upon receipt of the communication the court shall appoint a suitable person who may, but need not be, an employee of the state, county, community mental health services program, or court, to prepare and file with the court a petition reflecting the communication.

(3) The court, upon receipt of a petition filed under this section, shall conduct a hearing. At the hearing, the individual shall have all of the rights indicated in sections 615 and 617.

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

(a) Dismiss the petition.

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

(c) Remove the guardian and appoint a successor.

(d) Modify the original guardianship order.

(e) Make any other order that the court considers appropriate and in the interests of the individual with a developmental disability.

Sec. 642. (1) The surviving parent of a minor with a developmental disability for whom a guardian has not been appointed may by will appoint a testamentary guardian. The testamentary appointment becomes effective without, but subject to, probate immediately upon the death of the parent. A testamentary guardian possesses the powers of a parent, and shall serve subject to the court's power to reduce the scope of guardianship authority or to dismiss a

guardian. The appointment shall terminate when the minor attains 18 years of age, or the guardian is dismissed, whichever occurs first. Upon assuming office, the testamentary guardian shall notify the court in which the decedent's will is to be probated.

(2) A parent who has been appointed guardian of his or her minor or adult child with a developmental disability may by will, except in the event that a standby guardian has been designated, appoint a testamentary guardian. The testamentary appointment becomes effective without, but subject to, probate immediately upon the death of the initially appointed guardian. The testamentary guardian possesses the powers of the initially appointed guardian, shall be entitled to receive upon request a copy of a court order creating or modifying the initial guardianship, and shall serve subject to the power of the court that appointed the initial guardian to reduce the scope of guardianship authority or to dismiss a guardian. In the event that the court probating decedent's will does not have jurisdiction over the testamentary guardian except if the court finds the will to be invalid, the appointment shall be nullified. Upon assuming office, the testamentary guardian shall notify the probate court that appointed the initial guardian and the probate court in which the will is subject to probate.

Sec. 700. As used in this chapter, unless the context requires otherwise:

(a) "Criminal abuse" means 1 or more of the following:

(i) An assault that is a violation or an attempt or conspiracy to commit a violation of sections 81 to 90 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 to 750.90 of the Michigan Compiled Laws. Criminal abuse does not include an assault or an assault and battery that is a violation of section 81 of Act No. 328 of the Public Acts of 1939, being section 750.81 of the Michigan Compiled Laws, and that is committed by a recipient against another recipient.

(ii) A criminal homicide that is a violation or an attempt or conspiracy to commit a violation of section 316, 317, or 321 of Act No. 328 of the Public Acts of 1931, being sections 750.316, 750.317, and 750.321 of the Michigan Compiled Laws.

(iii) Criminal sexual conduct that is a violation or an attempt or conspiracy to commit a violation of sections 520b to 520e or 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.

(iv) Vulnerable adult abuse that is a violation or an attempt or conspiracy to commit a violation of section 145n of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.145n of the Michigan Compiled Laws.

(v) Child abuse that is a violation or an attempt or conspiracy to commit a violation of section 136b of Act No. 328 of the Public Acts of 1931, being section 750.136b of the Michigan Compiled Laws.

(b) "Health care corporation" means a nonprofit health care corporation operating under the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws.

(c) "Health care insurer" means an insurer authorized to provide health insurance in this state or a legal entity that is self-insured and provides health care benefits to its employees.

(d) "Health maintenance organization" means an organization licensed under part 210 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.21001 to 333.21098 of the Michigan Compiled Laws.

(e) "Money" means any legal tender, note, draft, certificate of deposit, stock, bond, check, or credit card.

(f) "Nonprofit dental care corporation" means a dental care corporation incorporated under Act No. 125 of the Public Acts of 1963, being sections 550.351 to 550.373 of the Michigan Compiled Laws.

(g) "Person-centered planning" means a process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals as the individual desires or requires.

(h) "Privileged communication" means a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, or to another person while the other person is participating in the examination, diagnosis, or treatment or a communication made privileged under other applicable state or federal law.

(i) "Restraint" means the use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.

(j) "Seclusion" means the temporary placement of a recipient in a room, alone, where egress is prevented by any means.

(k) "Support plan" means a written plan that specifies the personal support services or any other supports that are to be developed with and provided for a recipient.

(l) "Treatment plan" means a written plan that specifies the goal-oriented treatment or training services, including rehabilitation or habilitation services, that are to be developed with and provided for a recipient.

Sec. 702. (1) The receipt of mental health services, a determination that an individual meets the criteria of a person requiring treatment or for judicial admission, or any form of admission to a facility including by judicial order shall not be used to deprive an individual of his or her rights, benefits, or privileges.

(2) The receipt of mental health services, a determination that an individual meets the criteria of a person requiring treatment or for judicial admission, or any form of admission to a facility including by judicial order does not constitute a determination or adjudication that the individual is incompetent as that term is used in other statutes.

Sec. 704. (1) In addition to the rights, benefits, and privileges guaranteed by other provisions of law, the state constitution of 1963, and the constitution of the United States, a recipient of mental health services shall have the rights guaranteed by this chapter unless otherwise restricted by law.

(2) The rights enumerated in this chapter shall not be construed to replace or limit any other rights, benefits, or privileges of a recipient of services including the right to treatment by spiritual means if requested by the recipient, parent, or guardian.

(3) The provisions of this chapter shall be construed to protect and promote the dignity and respect to which a recipient of services is entitled.

Sec. 705. (1) If an applicant for community mental health services has been denied mental health services, the applicant, his or her guardian if one has been appointed, or the applicant's parent or parents if the applicant is a minor may request a second opinion of the executive director. The executive director shall secure the second opinion from a physician, licensed psychologist, registered professional nurse, or master's level social worker, or master's level psychologist.

(2) If the individual providing the second opinion determines that the applicant has a serious mental illness, serious emotional disturbance, or a developmental disability, or is experiencing an emergency situation or urgent situation, the community mental health services program shall direct services to the applicant.

Sec. 706. Except as provided in section 707, applicants for and recipients of mental health services and in the case of minors, the applicant's or recipient's parent or guardian, shall be notified by the providers of those services of the rights guaranteed by this chapter. Notice shall be accomplished by providing an accurate summary of this chapter and chapter 7a to the applicant or recipient at the time services are first requested and by having a complete copy of this chapter and chapter 7a readily available for review by applicants and recipients.

Sec. 706a. (1) The department shall prepare and distribute to each community mental health services program copies of a pamphlet containing information regarding resources available to individuals with serious mental illness and their families. The information shall include a description of advocacy and support groups, and other information of interest to recipients and their families. The pamphlet shall include the name, address, and telephone number of the organization designated by the governor under section 931 to provide protection and advocacy for individuals with developmental disability or mental illness.

(2) A community mental health services program shall distribute the pamphlet described in subsection (1) to each recipient receiving services through the community mental health services program and, if applicable, to the recipient's guardian or the parent of a minor recipient.

Sec. 707. (1) A minor 14 years of age or older may request and receive mental health services and a mental health professional may provide mental health services, on an outpatient basis, excluding pregnancy termination referral services and the use of psychotropic drugs, without the consent or knowledge of the minor's parent, guardian, or person in loco parentis. Except as otherwise provided in this section, the minor's parent, guardian, or person in loco parentis shall not be informed of the services without the consent of the minor unless the mental health professional treating the minor determines that there is a compelling need for disclosure based on a substantial probability of harm to the minor or to another individual, and if the minor is notified of the mental health professional's intent to inform the minor's parent, guardian, or person in loco parentis.

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

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

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

(5) This section does not relieve a mental health professional from his or her duty to report suspected child abuse or neglect under section 3 of the child protection law, Act No. 238 of the Public Acts of 1975, being section 722.623 of the Michigan Compiled Laws.

Sec. 708. (1) A recipient shall receive mental health services suited to his or her condition.

(2) Mental health services shall be provided in a safe, sanitary, and humane treatment environment.

(3) Mental health services shall be offered in the least restrictive setting that is appropriate and available.

(4) A recipient has the right to be treated with dignity and respect.

Sec. 710. Within 24 hours after admission, each resident of a hospital or center shall receive a comprehensive physical and mental examination. Each resident shall be periodically reexamined not less often than annually.

Sec. 711. Family members of recipients shall be treated with dignity and respect. They shall be given an opportunity to provide information to the treating professionals. They shall also be provided an opportunity to request and receive educational information about the nature of disorders, medications and their side effects, available support services, advocacy and support groups, financial assistance and coping strategies.

Sec. 712. (1) The responsible mental health agency for each recipient shall ensure that a person-centered planning process is used to develop a written individual plan of services in partnership with the recipient. The individual plan of services shall be developed within 7 days of the commencement of services or, if an individual is hospitalized, before discharge or release. The individual plan of services shall consist of a treatment plan, a support plan, or both, and shall establish meaningful and measurable goals with the recipient. The individual plan of services shall include assessments of the recipient's need for food, shelter, clothing, health care, employment opportunities where appropriate, educational opportunities where appropriate, legal services, and recreation. The plan shall be kept current and shall be modified when indicated. The individual in charge of implementing the plan of services shall be designated in the plan.

(2) If a recipient is not satisfied with his or her individual plan of services, the recipient or his or her guardian or the parent of a minor recipient may make a request for review to the designated individual in charge of implementing the plan. The review shall be completed within 30 days and shall be carried out in a manner approved by the appropriate governing body.

(3) An individual chosen or required by the recipient may be excluded from participation in the planning process only if inclusion of that individual would constitute a substantial risk of physical or emotional harm to the recipient or substantial disruption of the planning process. Justification for an individual's exclusion shall be documented in the case record.

Sec. 713. A recipient shall be given a choice of physician or other mental health professional in accordance with the policies of the community mental health services program, licensed hospital, or service provider under contract with the community mental health services program, or licensed hospital providing services and within the limits of available staff in the community mental health services program, licensed hospital, or service provider under contract with the community mental health services program, or licensed hospital.

Sec. 714. A recipient shall be informed orally and in writing of his or her clinical status and progress at reasonable intervals established in the individual plan of services in a manner appropriate to his or her clinical condition.

Sec. 715. If a resident is able to secure the services of a mental health professional, he or she shall be allowed to see the professional at any reasonable time.

Sec. 716. (1) Except as provided in subsections (2) and (3), a recipient of mental health services shall not have surgery performed upon him or her unless consent is obtained from 1 of the following:

(a) The recipient if he or she is 18 years of age or over and does not have a guardian for medical purposes.

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

(c) The parent of the recipient who has legal and physical custody of the recipient, if the recipient is less than 18 years of age.

(d) The representative authorized to consent under a durable power of attorney or other advance directive.

(2) If the life of a recipient is threatened and there is not time to obtain consent, surgery may be performed without consent after the medical necessity for the procedure has been documented and the documentation has been entered into the record of the recipient.

(3) If surgery is considered advisable for a recipient, and if no one eligible under subsection (1) to give consent can be found after diligent effort, a probate court may, upon petition and after hearing, consent to performance of the surgery in lieu of the individual eligible to give consent.

Sec. 717. (1) A recipient shall not be the subject of electroconvulsive therapy or a procedure intended to produce convulsions or coma unless consent is obtained from the following:

- (a) The recipient, if he or she is 18 years of age or older and does not have a guardian for medical purposes.
- (b) The recipient's parent who has legal and physical custody of the recipient, if the recipient is less than 18 years of age.
- (c) The recipient's guardian, if the guardian has power to execute a consent to procedures described in this section.
- (d) The recipient's designated representative, if a durable power of attorney or other advance directive grants the representative authority to consent to procedures described in this section.

(2) If a guardian consents to a procedure described in this section, the procedure shall not be initiated until 2 psychiatrists have examined the recipient and documented in the recipient's medical record their concurrence with the decision to administer the procedure.

(3) If a parent or guardian of a minor consents to a procedure described in this section, the procedure shall not be initiated until 2 child and adolescent psychiatrists, neither of whom may be the treating psychiatrist, have examined the minor and documented in the minor's medical record their concurrence with the decision to administer the procedure.

(4) A minor or an advocate designated by the minor may object to the administration of a procedure described in this section. The objection shall be made either orally or in writing to the probate court. The procedure shall not be initiated before a court hearing on the minor's or advocate's objection.

(5) At least 72 hours, excluding Sundays or holidays, before the initiation of a procedure described in this section, a minor shall be informed that he or she has a right to object to the procedure.

(6) If a procedure described in this section is considered advisable for a recipient and an individual eligible to give consent for the procedure is not located after diligent effort, a probate court may, upon petition and after a hearing, consent to administration of the procedure in lieu of the individual eligible to give consent.

Sec. 718. Psychotropic drugs shall not be administered to an individual who has been hospitalized by medical certification or by petition under chapter 4 or 5 on the day preceding and on the day of his or her court hearing unless the individual consents or unless the administration of the psychotropic drugs is necessary to prevent physical injury to the individual or others.

Sec. 719. (1) The prescriber or, if the prescriber is not on site, the individual administering a drug shall explain to a recipient the specific risk, if any, to the recipient of the most common adverse effects that have been associated with any psychotropic medication prescribed for the recipient. A written summary of the most common adverse effects shall be provided to the recipient by the person dispensing the drug.

(2) An individual who violates this section is guilty of a misdemeanor punishable by a fine of \$100.00 or imprisonment for 90 days, or both.

Sec. 720. The department shall provide an annual statistical report to the members of the house and senate standing committees and appropriations subcommittees with legislative oversight of mental health issues summarizing all deaths and causes of deaths, if known of mental health care recipients that have been reported to the department and all deaths that have occurred in state facilities.

Sec. 722. (1) A recipient of mental health services shall not be subjected to abuse or neglect.

(2) The department, each community mental health services program, each licensed hospital, and each service provider under contract with the department, community mental health services program, or licensed hospital shall ensure that appropriate disciplinary action is taken against those who have engaged in abuse or neglect.

(3) A recipient of mental health services who is abused or neglected has a right to pursue injunctive and other appropriate civil relief.

Sec. 723. (1) A mental health professional, a person employed by or under contract to the department, a licensed facility, or a community mental health services program, or a person employed by a provider under contract to the department, a licensed facility, or a community mental health services program who has reasonable cause to suspect the criminal abuse of a recipient immediately shall make or cause to be made, by telephone or otherwise, an oral report of the suspected criminal abuse to the law enforcement agency for the county or city in which the criminal abuse is suspected to have occurred or to the state police.

(2) Within 72 hours after making the oral report, the reporting individual shall file a written report with the law enforcement agency to which the oral report was made, and with the chief administrator of the facility or agency responsible for the recipient.

(3) The written report required by subsection (2) shall contain the name of the recipient and a description of the criminal abuse and other information available to the reporting individual that might establish the cause of the criminal

abuse and the manner in which it occurred. The report shall become a part of the recipient's clinical record. Before the report becomes part of the recipient's clinical record, the names of the reporting individual and the individual accused of committing the criminal abuse, if contained in the report, shall be deleted.

(4) The identity of an individual who makes a report under this section is confidential and is not subject to disclosure without the consent of that individual or by order or subpoena of a court of record. An individual acting in good faith who makes a report of criminal abuse against a recipient is immune from civil or criminal liability that might otherwise be incurred. The immunity from civil or criminal liability granted by this subsection extends only to acts done under this section and does not extend to a negligent act that causes personal injury or death.

(5) An individual who makes a report under this section in good faith shall not be dismissed or otherwise penalized by an employer or contractor for making the report.

(6) This section does not relieve an individual from the duty to report criminal abuse under other applicable law.

(7) The department, a community mental health services program, a licensed facility, and a service provider under contract with the department, community mental health services program, or licensed facility shall cooperate in the prosecution of appropriate criminal charges against those who have engaged in criminal abuse.

(8) Except as otherwise provided in subsection (5), this section does not preclude nor hinder the department, a licensed facility, a community mental health services program, or a service provider under contract to the department, a licensed facility, or a community mental health services program from investigating reported claims of criminal abuse of a recipient by its employees, and from taking appropriate disciplinary action against its employees based upon that investigation.

(9) This section does not require a person to report suspected criminal abuse if either of the following applies:

(a) The individual has knowledge that the incident of suspected criminal abuse has been reported to the appropriate law enforcement agency as provided in this section.

(b) The suspected criminal abuse occurred more than 1 year before the date on which it first became known to an individual who would otherwise be required to make a report.

(10) This section does not require an individual required to report suspected criminal abuse under subsection (1) to disclose confidential information or a privileged communication except under 1 or both of the following circumstances:

(a) If the suspected criminal abuse is alleged to have been committed or caused by a mental health professional, an individual employed by or under contract to the department, a licensed facility, or a community mental health services program, or an individual employed by a service provider under contract to the department, a licensed facility, or a community mental health services program.

(b) If the suspected criminal abuse is alleged to have been committed in 1 of the following:

(i) A state facility or a licensed facility.

(ii) A county community mental health services program site.

(iii) The work site of an individual employed by or under contract to the department, a licensed facility, or a community mental health services program or a provider under contract to the department, a licensed facility, or a community mental health services program.

(iv) A place where a recipient is under the supervision of an individual employed by or under contract to the department, a licensed facility, a community mental health services program, or a provider under contract to the department, a licensed facility, or a community mental health services program.

Sec. 723a. The court with jurisdiction in each case resulting from a report made under section 723 shall appoint a guardian ad litem for the recipient.

Sec. 723b. Section 723 does not prohibit an individual who is not employed by or under contract to the department, a licensed facility, or a community mental health services program and who has reasonable cause to suspect the criminal abuse of a recipient from making a report to the appropriate law enforcement agency or to the department or community mental health services program.

Sec. 723c. (1) An individual who intentionally violates section 723 or who knowingly makes a false report pursuant to section 723 is guilty of a misdemeanor.

(2) An individual who violates section 723 is civilly liable for the damages proximately caused by the violation.

Sec. 724. (1) A recipient of mental health services shall not be fingerprinted, photographed, audiotaped, or viewed through a 1-way glass except in the circumstances and under the conditions set forth in this section. As used in this section, photographs include still pictures, motion pictures, and videotapes.

(2) Fingerprints, photographs, or audiotapes may be taken and used and 1-way glass may be used in order to provide services, including research, to a recipient or in order to determine the name of the recipient only when prior written consent is obtained from 1 of the following:

- (a) The recipient if 18 years of age or over and competent to consent.
- (b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.
- (c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.

(3) Fingerprints, photographs, or audiotapes taken in order to provide services to a recipient, and any copies of them, shall be kept as part of the record of the recipient.

(4) Fingerprints, photographs, or audiotapes taken in order to determine the name of a recipient shall be kept as part of the record of the recipient, except that when necessary the fingerprints, photographs, or audiotapes may be delivered to others for assistance in determining the name of the recipient. Fingerprints, photographs, or audiotapes so delivered shall be returned together with copies that were made. An individual receiving fingerprints, photographs, or audiotapes shall be informed of the requirement that return be made. Upon return, the fingerprints, photographs, or audiotapes, together with copies, shall be kept as part of the record of the recipient.

(5) Fingerprints, photographs, or audiotapes in the record of a recipient, and any copies of them, shall be given to the recipient or destroyed when they are no longer essential in order to achieve 1 of the objectives set forth in subsection (2), or upon discharge of the resident, whichever occurs first.

(6) Photographs may be taken for purely personal or social purposes. A photograph of a recipient shall not be taken or used under this subsection if the recipient has indicated his or her objection.

(7) Photographs or audiotapes may be taken and 1-way glass may be used for educational or training purposes only when express written consent is obtained from 1 of the following:

- (a) The recipient if 18 years of age or over and competent to consent.
- (b) The guardian of the recipient if the guardian is legally empowered to execute such a consent.
- (c) The parent with legal and physical custody of the recipient if the recipient is less than 18 years of age.
- (8) This section does not apply to recipients of mental health services referred under chapter 10.

Sec. 726. (1) A resident is entitled to unimpeded, private, and uncensored communication with others by mail and telephone and to visit with persons of his or her choice, except in the circumstances and under the conditions set forth in this section.

(2) Each facility shall endeavor to implement the rights guaranteed by subsection (1) by making telephones reasonably accessible, by ensuring that correspondence can be conveniently and confidentially received and mailed, and by making space for visits available. Writing materials, telephone usage funds, and postage shall be provided in reasonable amounts to residents who are unable to procure such items.

(3) Reasonable times and places for the use of telephones and for visits may be established and, if established, shall be in writing and posted in each living unit of a residential program.

(4) The right of a resident to communicate by mail or telephone or receive visitors shall not be further limited except as authorized in the resident's individual plan of services.

(5) A limitation upon the rights guaranteed by subsection (1) shall not apply between a resident and an attorney or a court, or between a resident and other individuals if the communication involves matters that are or may be the subject of legal inquiry.

Sec. 728. (1) A resident is entitled to receive, possess, and use all personal property, including clothing, except in the circumstances and under the conditions set forth in this section.

(2) Each facility shall provide a reasonable amount of storage space to each resident for his or her clothing and other personal property. The resident shall be permitted to inspect personal property at reasonable times.

(3) A facility may exclude particular kinds of personal property from the facility. Any exclusions shall be officially adopted and shall be in writing and posted in each residential unit.

(4) The individual in charge of the plan of services for a resident may limit the rights guaranteed by subsection (1) if each limitation is essential for 1 of the following purposes:

- (a) In order to prevent theft, loss, or destruction of the property, unless a waiver is signed by the resident.
- (b) In order to prevent the resident from physically harming himself, herself, or others.

(5) A limitation adopted under the authority of subsection (4), the date it expires, and justification for its adoption shall be promptly noted in the record of the resident.

(6) A limitation adopted under the authority of subsection (4) shall be removed when the circumstance that justified its adoption ceases to exist.

(7) A receipt shall be given to a resident and an individual designated by the resident for any of his or her personal property taken into the possession of the facility. Any personal property in the possession of a facility at the time the resident to whom the property belongs is released from the facility shall be returned to the resident.

Sec. 730. (1) The department shall establish policies and procedures designed to ensure that money in the accounts of residents of a state facility are safeguarded against theft, loss, or misappropriation.

(2) A state facility may require that all money that is on the person of a resident, that comes to a resident, or that the facility receives on behalf of the resident under a benefit arrangement or otherwise, be turned over to the facility for safekeeping. The money shall be accounted for in the name of the resident and recorded periodically in the records of the resident. Upon request, money accounted for in the name of a resident shall be turned over to a legal guardian of the resident if the guardian has such authority.

(3) A resident of a state facility is entitled to easy access to the money in his or her account and to spend or otherwise use the money as he or she chooses, except as provided in policies and procedures of the department established under subsection (1). Policies and procedures shall be established in writing for each state facility giving residents easy access to the money in their accounts and enabling residents to spend or otherwise use their money as they choose.

(4) Money accounted for in the name of a resident of a state facility may be deposited with a financial institution. Any earnings attributable to money in an account of a resident shall be credited to that account.

(5) All money, including any earnings, in an account of a resident of a state facility shall be delivered to the resident upon his or her release from the facility.

Sec. 732. A state facility may accept funds that a parent, guardian, or other individual wishes to provide for the use or benefit of a resident of the facility. Unless otherwise restricted by law, the possession and use of funds so provided are governed by section 730, the individual plan of services, and any additional directions given by the provider of the funds.

Sec. 734. In the absence of any other responsible party, a state facility may accept an appointment to serve as a representative payee, fiduciary, or in a similar capacity for payments to a resident under a public or private benefit arrangement unless otherwise restricted by law. Funds received under that arrangement are subject to section 730 except to the extent laws or regulations governing payment of the benefits provide otherwise.

Sec. 736. (1) A resident may perform labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if the resident voluntarily agrees to perform the labor, engaging in the labor would not be inconsistent with the individual plan of services for the resident, and the amount of time or effort necessary to perform the labor would not be excessive. In no event shall discharge or privileges be conditioned upon the performance of such labor.

(2) A resident who performs labor that contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone shall be compensated appropriately and in accordance with applicable federal and state labor laws, including minimum wage and minimum wage reduction provisions.

(3) A resident who performs labor other than that described in subsection (2) shall be compensated an appropriate amount if an economic benefit to another individual or agency results from his or her labor.

(4) The governing body of the facility may provide for compensation of a resident when he or she performs labor not governed by subsection (2) or (3).

(5) Subsections (1), (2), and (3) do not apply to labor of a personal housekeeping nature or labor performed as a condition of residence in a small group living arrangement.

(6) One-half of any compensation paid to a resident under this section is exempt from collection under this act as payment for services rendered.

Sec. 740. (1) A resident shall not be placed in physical restraint except in the circumstances and under the conditions set forth in this section or in other law.

(2) A resident may be restrained only as provided in subsection (3), (4), or (5) after less restrictive interventions have been considered, and only if restraint is essential in order to prevent the resident from physically harming himself, herself, or others, or in order to prevent him or her from causing substantial property damage. Consideration of less restrictive measures shall be documented in the medical record. If restraint is essential in order to prevent the resident from physically harming himself, herself, or others, the resident may be physically held with no more force than is necessary to limit the resident's movement, until a restraint may be applied.



(3) A resident may be temporarily restrained for a maximum of 30 minutes without an order or authorization in an emergency. Immediately after imposition of the temporary restraint, a physician shall be contacted. If, after being contacted, the physician does not order or authorize the restraint, the restraint shall be removed.

(4) A resident may be restrained prior to examination pursuant to an authorization by a physician. An authorized restraint may continue only until a physician can personally examine the resident or for 2 hours, whichever is less. If it is not possible for the physician to examine the resident within 2 hours, a physician may reauthorize the restraint for another 2 hours. Authorized restraint may not continue for more than 4 hours.

(5) A resident may be restrained pursuant to an order by a physician made after personal examination of the resident. An ordered restraint shall continue only for that period of time specified in the order or for 8 hours, whichever is less.

(6) A restrained resident shall continue to receive food, shall be kept in sanitary conditions, shall be clothed or otherwise covered, shall be given access to toilet facilities, and shall be given the opportunity to sit or lie down.

(7) Restraints shall be removed every 2 hours for not less than 15 minutes unless medically contraindicated or whenever they are no longer essential in order to achieve the objective which justified their initial application.

(8) Each instance of restraint requires full justification for its application, and the results of each periodic examination shall be placed promptly in the record of the resident.

(9) If a resident is restrained repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduction of the use of restraints.

Sec. 742. (1) Seclusion shall be used only in a hospital or center. A resident shall not be kept in seclusion except in the circumstances and under the conditions set forth in this section.

(2) A resident may be placed in seclusion only as provided under subsection (3), (4), or (5) and only if it is essential in order to prevent the resident from physically harming others, or in order to prevent the resident from causing substantial property damage.

(3) Seclusion may be temporarily employed for a maximum of 30 minutes in an emergency without an authorization or an order. Immediately after the resident is placed in temporary seclusion, a physician shall be contacted. If, after being contacted, the physician does not authorize or order the seclusion, the resident shall be removed from seclusion.

(4) A resident may be placed in seclusion under an authorization by a physician. Authorized seclusion shall continue only until a physician can personally examine the resident or for 1 hour, whichever is less.

(5) A resident may be placed in seclusion under an order of a physician made after personal examination of the resident to determine if the ordered seclusion poses an undue health risk to the resident. Ordered seclusion shall continue only for that period of time specified in the order or for 8 hours, whichever is less. An order for a minor shall continue for a maximum of 4 hours.

(6) A secluded resident shall continue to receive food, shall remain clothed unless his or her actions make it impractical or inadvisable, shall be kept in sanitary conditions, and shall be provided a bed or similar piece of furniture unless his or her actions make it impractical or inadvisable.

(7) A secluded resident shall be released from seclusion whenever the circumstance that justified its use ceases to exist.

(8) Each instance of seclusion requires full justification for its use, and the results of each periodic examination shall be placed promptly in the record of the resident.

(9) If a resident is secluded repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduced use of seclusion.

Sec. 744. (1) The freedom of movement of a recipient shall not be restricted more than is necessary to provide mental health services to him or her, to prevent injury to him or her or to others, or to prevent substantial property damage, except that security precautions appropriate to the condition and circumstances of an individual admitted by order of a criminal court or transferred as a sentence-serving convict from a penal institution may be taken.

(2) A restriction adopted under the authority of subsection (1), the date it expires, and justification for its adoption shall be promptly noted in the record of the recipient.

(3) A restriction adopted under the authority of subsection (1) shall be removed when the circumstance that justified its adoption ceases to exist.

Sec. 748. (1) Information in the record of a recipient, and other information acquired in the course of providing mental health services to a recipient, shall be kept confidential and shall not be open to public inspection. The information may be disclosed outside the department, community mental health services program, licensed facility, or contract provider, whichever is the holder of the record, only in the circumstances and under the conditions set forth in this section.

(2) If information made confidential by this section is disclosed, the identity of the individual to whom it pertains shall be protected and shall not be disclosed unless it is germane to the authorized purpose for which disclosure was sought; and, when practicable, no other information shall be disclosed unless it is germane to the authorized purpose for which disclosure was sought.

(3) An individual receiving information made confidential by this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(4) For case record entries made subsequent to the effective date of the amendatory act that added section 100a, information made confidential by this section shall be disclosed to an adult recipient, upon the recipient's request, if the recipient does not have a guardian and has not been adjudicated legally incompetent.

(5) Except as otherwise provided in subsection (4), (6), (7), or (9), when requested, information made confidential by this section shall be disclosed only under 1 or more of the following circumstances:

(a) Pursuant to orders or subpoenas of a court of record, or subpoenas of the legislature, unless the information is made privileged by law.

(b) To a prosecuting attorney as necessary for the prosecuting attorney to participate in a proceeding governed by this act.

(c) To an attorney for the recipient, with the consent of the recipient, the recipient's guardian with authority to consent, or the parent with legal and physical custody of a minor recipient.

(d) If necessary in order to comply with another provision of law.

(e) To the department if the information is necessary in order for the department to discharge a responsibility placed upon it by law.

(f) To the office of the auditor general if the information is necessary for that office to discharge its constitutional responsibility.

(g) To a surviving spouse of the recipient or, if there is no surviving spouse, to the individual or individuals most closely related to the deceased recipient within the third degree of consanguinity as defined in civil law, for the purpose of applying for and receiving benefits.

(6) If consent is obtained from the recipient, the recipient's guardian with authority to consent, the parent with legal custody of a minor recipient, or the court-appointed personal representative or executor of the estate of a deceased recipient, information made confidential by this section may be disclosed to all of the following:

(a) Providers of mental health services to the recipient.

(b) The recipient or his or her guardian or the parent of a minor recipient or any other individual or agency unless in the written judgment of the holder the disclosure would be detrimental to the recipient or others.

(7) Information may be disclosed in the discretion of the holder of the record:

(a) As necessary in order for the recipient to apply for or receive benefits.

(b) As necessary for the purpose of outside research, evaluation, accreditation, or statistical compilation, provided that the individual who is the subject of the information can be identified from the disclosed information only if such identification is essential in order to achieve the purpose for which the information is sought or if preventing such identification would clearly be impractical, but in no event if the subject of the information is likely to be harmed by the identification.

(c) To providers of mental or other health services or a public agency, if there is a compelling need for disclosure based upon a substantial probability of harm to the recipient or other individuals.

(8) If required by federal law, the department or a community mental health services program or licensed facility shall grant a representative of the protection and advocacy system designated by the governor in compliance with section 931 access to the records of all of the following:

(a) A recipient, if the recipient, the recipient's guardian with authority to consent, or a minor recipient's parent with legal and physical custody of the recipient has consented to the access.

(b) A recipient, including a recipient who has died or whose whereabouts are unknown, if all of the following apply:

(i) Because of mental or physical condition, the recipient is unable to consent to the access.

(ii) The recipient does not have a guardian or other legal representative, or the recipient's guardian is the state.

(iii) The protection and advocacy system has received a complaint on behalf of the recipient or has probable cause to believe based on monitoring or other evidence that the recipient has been subject to abuse or neglect.

(c) A recipient who has a guardian or other legal representative if all of the following apply:

(i) A complaint has been received by the protection and advocacy system or there is probable cause to believe the health or safety of the recipient is in serious and immediate jeopardy.

(ii) Upon receipt of the name and address of the recipient's legal representative, the protection and advocacy system has contacted the representative and offered assistance in resolving the situation.

(iii) The representative has failed or refused to act on behalf of the recipient.

(9) The records, data, and knowledge collected for or by individuals or committees assigned a peer review function, including the review function under section 143a(1), are confidential, shall be used only for the purposes of peer review, are not public records, and are not subject to court subpoena. This subsection does not prevent disclosure of individual case records pursuant to this section.

(10) The holder of an individual's record, when authorized to release information for clinical purposes by the individual or the individual's guardian or a parent of a minor, shall release a copy of the entire medical and clinical record to the provider of mental health services.

Sec. 749. A recipient, guardian, or parent of a minor recipient, after having gained access to treatment records, may challenge the accuracy, completeness, timeliness, or relevance of factual information in the recipient's record. The recipient, guardian, or parent of a minor recipient shall be allowed to insert into the record a statement correcting or amending the information at issue. The statement shall become part of the record.

Sec. 750. (1) Privileged communications shall not be disclosed in civil, criminal, legislative, or administrative cases or proceedings, or in proceedings preliminary to such cases or proceedings, unless the patient has waived the privilege, except in the circumstances set forth in this section.

(2) Privileged communications shall be disclosed upon request under 1 or more of the following circumstances:

(a) If the privileged communication is relevant to a physical or mental condition of the patient that the patient has introduced as an element of the patient's claim or defense in a civil or administrative case or proceeding or that, after the death of the patient, has been introduced as an element of the patient's claim or defense by a party to a civil or administrative case or proceeding.

(b) If the privileged communication is relevant to a matter under consideration in a proceeding governed by this act, but only if the patient was informed that any communications could be used in the proceeding.

(c) If the privileged communication is relevant to a matter under consideration in a proceeding to determine the legal competence of the patient or the patient's need for a guardian but only if the patient was informed that any communications made could be used in such a proceeding.

(d) In a civil action by or on behalf of the patient or a criminal action arising from the treatment of the patient against the mental health professional for malpractice.

(e) If the privileged communication was made during an examination ordered by a court, prior to which the patient was informed that a communication made would not be privileged, but only with respect to the particular purpose for which the examination was ordered.

(f) If the privileged communication was made during treatment that the patient was ordered to undergo to render the patient competent to stand trial on a criminal charge, but only with respect to issues to be determined in proceedings concerned with the competence of the patient to stand trial.

(3) In a proceeding in which subsections (1) and (2) prohibit disclosure of a communication made to a psychiatrist or psychologist in connection with the examination, diagnosis, or treatment of a patient, the fact that the patient has been examined or treated or undergone a diagnosis also shall not be disclosed unless that fact is relevant to a determination by a health care insurer, health care corporation, nonprofit dental care corporation, or health maintenance organization of its rights and liabilities under a policy, contract, or certificate of insurance or health care benefits.

(4) Privileged communications may be disclosed under section 946 to comply with the duty set forth in that section.

Sec. 752. (1) The department, each community mental health services program, each licensed hospital, and each service provider under contract with the department, a community mental health services program, or a licensed hospital shall establish written policies and procedures concerning recipient rights and the operation of an office of recipient rights. The policies and procedures shall provide a mechanism for prompt reporting, review, investigation, and resolution of apparent or suspected violations of the rights guaranteed by this chapter, shall be consistent with this chapter and chapter 7a, and shall be designed to protect recipients from, and prevent repetition of, violations of rights guaranteed by this chapter and chapter 7a. The policies and procedures shall include, at a minimum, all of the following:

(a) Complaint and appeal processes.

(b) Consent to treatment and services.

(c) Sterilization, contraception, and abortion.

(d) Fingerprinting, photographing, audiotaping, and use of 1-way glass.

(e) Abuse and neglect, including detailed categories of type and severity.

- (f) Confidentiality and disclosure.
- (g) Treatment by spiritual means.
- (h) Qualifications and training for recipient rights staff.
- (i) Change in type of treatment.
- (j) Medication procedures.
- (k) Use of psychotropic drugs.
- (l) Use of restraint.
- (m) Right to be treated with dignity and respect.
- (n) Least restrictive setting.
- (o) Services suited to condition.
- (p) Policies and procedures that address all of the following matters with respect to residents:
  - (i) Right to entertainment material, information, and news.
  - (ii) Comprehensive examinations.
  - (iii) Property and funds.
  - (iv) Freedom of movement.
  - (v) Resident labor.
  - (vi) Communication and visits.
  - (vii) Use of seclusion.

(2) All policies and procedures required by this section shall be established within 12 months after the effective date of the amendatory act that added section 753.

Sec. 753. The department shall review the recipient rights system of each community mental health services program in accordance with standards established under section 232a, to ensure a uniformly high standard of recipient rights protection throughout the state. For purposes of certification review, the department shall have access to all information pertaining to the rights protections system of the community mental health services program.

Sec. 754. (1) The department shall establish a state office of recipient rights subordinate only to the director of the department.

(2) The department shall ensure all of the following:

- (a) The process for funding the state office of recipient rights includes a review of the funding by the state recipient rights advisory committee.
- (b) The state office of recipient rights will be protected from pressures that could interfere with the impartial, even-handed, and thorough performance of its duties.
- (c) The state office of recipient rights will have unimpeded access to all of the following:
  - (i) All programs and services operated by or under contract with the department except where other recipient rights systems authorized by this act exist.
  - (ii) All staff employed by or under contract with the department.
  - (iii) All evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.
- (d) Staff of the state office of recipient rights receive training each year in recipient rights protection.
- (e) Each contract between the department and a provider requires both of the following:
  - (i) That the provider and his or her employees receive annual training in recipient rights protection.
  - (ii) That recipients will be protected from rights violations while they are receiving services under the contract.
- (f) Technical assistance and training in recipient rights protection are available to all community mental health services programs and other mental health service providers subject to this act.

(3) The department shall endeavor to ensure all of the following:

- (a) The state office of recipient rights has sufficient staff and other resources necessary to perform the duties described in this section.
- (b) Complainants, staff of the state office of recipient rights, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities.
- (c) Appropriate remedial action is taken to resolve violations of rights and notify the complainants of substantiated violations in a manner that does not violate employee rights.

(4) After consulting with the state recipient rights advisory committee, the director of the department shall select a director of the state office of recipient rights who has the education, training, and experience to fulfill the responsibilities of the office. The director of the department shall not replace or dismiss the director of the state office of recipient rights without first consulting the state recipient rights advisory committee. The director of the state office of recipient rights shall have no direct service responsibility.

(5) The state office of recipient rights may do all of the following:

(a) Investigate apparent or suspected violations of the rights guaranteed by this chapter.

(b) Resolve disputes relating to violations.

(c) Act on behalf of recipients to obtain appropriate remedies for any apparent violations.

(d) Apply for and receive grants, gifts, and bequests in order to effectuate any purpose of this chapter.

(6) The state office of recipient rights shall do all of the following:

(a) Ensure that recipients, parents of minor recipients, and guardians or other legal representatives have access to summaries of the rights guaranteed by this chapter and chapter 7a and are notified of those rights in an understandable manner, both at the time services are requested and periodically during the time services are provided to the recipient.

(b) Ensure that the telephone number and address of the office of recipient rights and the names of rights officers are conspicuously posted in all service sites.

(c) Maintain a record system for all reports of apparent or suspected rights violations received, including a mechanism for logging in all complaints and a mechanism for secure storage of all investigative documents and evidence.

(d) Initiate actions that are appropriate and necessary to safeguard and protect rights guaranteed by this chapter to recipients of services provided directly by the department or by its contract providers other than community mental health services programs.

(e) Receive reports of apparent or suspected violations of rights guaranteed by this chapter. The state office of recipient rights shall refer reports of apparent or suspected rights violations to the recipient rights office of the appropriate provider to be addressed by the provider's internal rights protection mechanisms. The state office shall intervene as necessary to act on behalf of recipients in situations in which the director of the department considers the rights protection system of the provider to be out of compliance with this act and rules promulgated under this act.

(f) Upon request, advise recipients of the process by which a rights complaint or appeal may be made and assist recipients in preparing written rights complaints and appeals.

(g) Advise recipients that there are advocacy organizations available to assist recipients in preparing written rights complaints and appeals and offer to refer recipients to those organizations.

(h) Upon receipt of a complaint, advise the complainant of the complaint process, appeal process, and mediation option.

(i) Ensure that each service site operated by the department or by a provider under contract with the department, other than a community mental health services program, is visited by recipient rights staff with the frequency necessary for protection of rights but in no case less than annually.

(j) Ensure that all individuals employed by the department receive department-approved training related to recipient rights protection before or within 30 days after being employed.

(k) Ensure that all reports of apparent or suspected violations of rights within state facilities or programs operated by providers under contract with the department other than community mental health services programs are investigated in accordance with section 778 and that those reports that do not warrant investigation are recorded in accordance with subdivision (c).

(l) Review semiannual statistical rights data submitted by community mental health services programs and licensed hospitals to determine trends and patterns in the protection of recipient rights in the public mental health system and provide a summary of the data to community mental health services programs and to the director of the department.

(m) Serve as consultant to the director in matters related to recipient rights.

(n) At least quarterly, provide summary complaint data consistent with the annual report required in subdivision (o), together with a summary of remedial action taken on substantiated complaints, to the department and the state recipient rights advisory committee.

(o) Submit to the director of the department and to the committees and subcommittees of the legislature with legislative oversight of mental health matters, for availability to the public, an annual report on the current status of recipient rights for the state. The report shall be submitted not later than March 31 of each year for the preceding fiscal year. The annual report shall include, at a minimum, all of the following:

(i) Summary data by type or category regarding the rights of recipients receiving services from the department including the number of complaints received by state facility and other state-operated placement agency, the number of reports filed, and the number of reports investigated.

- (ii) The number of substantiated rights violations by category and by state facility.
  - (iii) The remedial actions taken on substantiated rights violations by category and by state facility.
  - (iv) Training received by staff of the state office of recipient rights.
  - (v) Training provided by the state office of recipient rights to staff of contract providers.
  - (vi) Outcomes of assessments of the recipient rights system of each community mental health services program.
  - (vii) Identification of patterns and trends in rights protection in the public mental health system in this state.
  - (viii) Review of budgetary issues including staffing and financial resources.
  - (ix) Summary of the results of any consumer satisfaction surveys conducted.
  - (x) Recommendations to the department.
- (p) Provide education and training to its recipient rights advisory committee and its recipient rights appeals committee.

Sec. 755. (1) Each community mental health services program and each licensed hospital shall establish an office of recipient rights subordinate only to the executive director or hospital director.

(2) Each community mental health services program and each licensed hospital shall ensure all of the following:

(a) Education and training in recipient rights policies and procedures are provided to its recipient rights advisory committee and its recipient rights appeals committee.

(b) The process for funding the office of recipient rights includes a review of the funding by the recipient rights advisory committee.

(c) The office of recipient rights will be protected from pressures that could interfere with the impartial, even-handed, and thorough performance of its duties.

(d) The office of recipient rights will have unimpeded access to all of the following:

(i) All programs and services operated by or under contract with the community mental health services program or licensed hospital.

(ii) All staff employed by or under contract with the community mental health services program or licensed hospital.

(iii) All evidence necessary to conduct a thorough investigation or to fulfill its monitoring function.

(e) Staff of the office of recipient rights receive training each year in recipient rights protection.

(f) Each contract between the community mental health services program or licensed hospital and a provider requires both of the following:

(i) That the provider and his or her employees receive recipient rights training.

(ii) That recipients will be protected from rights violations while they are receiving services under the contract.

(3) Each community mental health services program and each licensed hospital shall endeavor to ensure all of the following:

(a) Complainants, staff of the office of recipient rights, and any staff acting on behalf of a recipient will be protected from harassment or retaliation resulting from recipient rights activities and that appropriate disciplinary action will be taken if there is evidence of harassment or retaliation.

(b) Appropriate remedial action is taken to resolve violations of rights and notify the complainants of substantiated violations in a manner that does not violate employee rights.

(4) The executive director or hospital director shall select a director of the office of recipient rights who has the education, training, and experience to fulfill the responsibilities of the office. The executive director shall not select, replace, or dismiss the director of the office of recipient rights without first consulting the recipient rights advisory committee. The director of the office of recipient rights shall have no direct clinical service responsibility.

(5) Each office of recipient rights established under this section shall do all of the following:

(a) Provide or coordinate the protection of recipient rights for all directly operated or contracted services.

(b) Ensure that recipients, parents of minor recipients, and guardians or other legal representatives have access to summaries of the rights guaranteed by this chapter and chapter 7a and are notified of those rights in an understandable manner, both at the time services are initiated and periodically during the time services are provided to the recipient.

(c) Ensure that the telephone number and address of the office of recipient rights and the names of rights officers are conspicuously posted in all service sites.

(d) Maintain a record system for all reports of apparent or suspected rights violations received within the community mental health services program system or the licensed hospital system, including a mechanism for logging in all complaints and a mechanism for secure storage of all investigative documents and evidence.

(e) Ensure that each service site is visited with the frequency necessary for protection of rights but in no case less than annually.

(f) Ensure that all individuals employed by the community mental health services program, contract agency, or licensed hospital receive training related to recipient rights protection before or within 30 days after being employed.

(g) Review the recipient rights policies and the rights system of each provider of mental health services under contract with the community mental health services program or licensed hospital to ensure that the rights protection system of each provider is in compliance with this act and is of a uniformly high standard.

(h) Serve as consultant to the executive director or hospital director and to staff of the community mental health services program or licensed hospital in matters related to recipient rights.

(i) Ensure that all reports of apparent or suspected violations of rights within the community mental health services program system or licensed hospital system are investigated in accordance with section 778 and that those reports that do not warrant investigation are recorded in accordance with subdivision (d).

(j) Semiannually provide summary complaint data consistent with the annual report required in subsection (6), together with a summary of remedial action taken on substantiated complaints by category, to the department and to the recipient rights advisory committee of the community mental health services program or licensed hospital.

(6) The executive director or hospital director shall submit to the board of the community mental health services program or the governing board of the licensed hospital and the department an annual report prepared by the office of recipient rights on the current status of recipient rights in the community mental health services program system or licensed hospital system and a review of the operations of the office of recipient rights. The report shall be submitted not later than December 30 of each year for the preceding fiscal year or period specified in contract. The annual report shall include, at a minimum, all of the following:

(a) Summary data by category regarding the rights of recipients receiving services from the community mental health services program or licensed hospital including complaints received, the number of reports filed, and the number of reports investigated by provider.

(b) The number of substantiated rights violations by category and provider.

(c) The remedial actions taken on substantiated rights violations by category and provider.

(d) Training received by staff of the office of recipient rights.

(e) Training provided by the office of recipient rights to contract providers.

(f) Desired outcomes established for the office of recipient rights and progress toward these outcomes.

(g) Recommendations to the community mental health services program board or licensed hospital governing board.

Sec. 756. (1) The director shall appoint a 12-member state recipient rights advisory committee. The membership of the committee shall be broadly based so as to best represent the varied perspectives of department staff, government officials, attorneys, community mental health services program staff, private providers, recipients, and recipient interest groups. At least 1/3 of the membership of the state recipient rights advisory committee shall be primary consumers or family members, and of that 1/3, at least 2 shall be primary consumers. In appointing members to the advisory committee, the director shall consider the recommendations of the director of the state office of recipient rights and individuals who are members of the recipient rights advisory committee.

(2) The state recipient rights advisory committee shall do all of the following:

(a) Meet at least quarterly, or more frequently as necessary, to carry out its responsibilities.

(b) Maintain a current list of members' names to be made available to individuals upon request.

(c) Maintain a current list of categories represented, to be made available to individuals upon request.

(d) Protect the state office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.

(e) Recommend to the director of the department candidates for the position of director of the state office of recipient rights and consult with the director regarding any proposed dismissal of the director of the state office of recipient rights.

(f) Serve in an advisory capacity to the director of the department and the director of the state office of recipient rights.

(g) Review and provide comments on the report submitted by the state office of recipient rights to the department under section 754.

(3) Meetings of the state recipient rights advisory committee are subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Minutes shall be maintained and made available to individuals upon request.

Sec. 757. (1) The board of each community mental health services program shall appoint a recipient rights advisory committee consisting of at least 6 members. The membership of the committee shall be broadly based so as to best represent the varied perspectives of the community mental health services program's geographic area. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3, at least 1/2 shall be primary consumers.

(2) The recipient rights advisory committee shall do all of the following:

(a) Meet at least semiannually or as necessary to carry out its responsibilities.

(b) Maintain a current list of members' names to be made available to individuals upon request.

(c) Maintain a current list of categories represented to be made available to individuals upon request.

(d) Protect the office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.

(e) Recommend candidates for director of the office of recipient rights to the executive director, and consult with the executive director regarding any proposed dismissal of the director of the office of recipient rights.

(f) Serve in an advisory capacity to the executive director and the director of the office of recipient rights.

(g) Review and provide comments on the report submitted by the executive director to the community mental health services program board under section 755.

(h) If designated by the board of the community mental health services program, serve as the appeals committee for a recipient's appeal under section 784.

(i) Meetings of the recipient rights advisory committee are subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Minutes shall be maintained and made available to individuals upon request.

Sec. 758. Unless otherwise provided by contract with the local community mental health services program, each licensed hospital shall appoint a recipient rights advisory committee. At least 1/3 of the membership shall be primary consumers or family members and, of that 1/3, at least 1/2 shall be primary consumers. The recipient rights advisory committee shall do all of the following:

(a) Meet at least semiannually or as necessary to carry out its responsibilities.

(b) Maintain a current list of members' names and a separate list of categories represented, to be made available to individuals upon request.

(c) Protect the office of recipient rights from pressures that could interfere with the impartial, even-handed, and thorough performance of its functions.

(d) Review and provide comments on the report submitted by the hospital director to the governing board of the licensed hospital under section 755.

(e) Serve in an advisory capacity to the hospital director and the director of the office of recipient rights.

## CHAPTER 7A DISPUTE RESOLUTION

Sec. 772. As used in this chapter:

(a) "Allegation" means an assertion of fact made by an individual that has not yet been proved or supported with evidence.

(b) "Appeals committee" means a committee appointed by the director or by the board of a community mental health services program or licensed hospital under section 774.

(c) "Appellant" means the recipient, complainant, parent, or guardian who appeals a recipient rights finding or a respondent's action to an appeals committee.

(d) "Complainant" means an individual who files a rights complaint.

(e) "Investigation" means a detailed inquiry into and systematic examination of an allegation raised in a rights complaint.

(f) "Mediation" means a private, informal dispute resolution process in which an impartial, neutral individual, in a confidential setting, assists parties in reaching their own settlement of issues in a dispute and has no authoritative decision-making power.

(g) "Office" means all of the following:

(i) With respect to a rights complaint involving services provided directly by or under contract with the department, unless the provider is a community mental health services program, the state office of recipient rights created under section 754.



(ii) With respect to a rights complaint involving services provided directly by or under contract with a community mental health services program, the office of recipient rights created by a community mental health services program under section 755.

(iii) With respect to a rights complaint involving services provided by a licensed hospital, the office of recipient rights created by a licensed hospital under section 755.

(h) "Rights complaint" means a written or oral statement that meets the requirements of section 776.

(i) "Respondent" means the service provider that had responsibility at the time of an alleged rights violation for the services with respect to which a rights complaint has been filed.

Sec. 774. (1) The director shall appoint an appeals committee consisting of 7 individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipient rights matters. The committee shall include at least 3 members of the state recipient rights advisory committee and 2 primary consumers.

(2) The board of a community mental health services program shall do 1 of the following:

(a) Appoint an appeals committee consisting of 7 individuals, none of whom shall be employed by the department or a community mental health services program, to hear appeals of recipients' rights matters. The appeals committee shall include at least 3 members of the recipient rights advisory committee, 2 board members, and 2 primary consumers. A member of the appeals committee may represent more than 1 of these categories.

(b) Designate the recipient rights advisory committee as the appeals committee.

(3) The governing body of a licensed hospital shall designate the appeals committee of the local community mental health services program to hear an appeal of a decision on a recipient rights matter brought by or on behalf of a recipient of that community mental health services program.

(4) The governing body of a licensed hospital shall do 1 of the following with respect to an appeal of a decision on a recipient rights matter brought by or on behalf of an individual who is not a recipient of a community mental health services program:

(a) Appoint an appeals committee consisting of 7 members, none of whom shall be employed by the department or a community mental health services program, 2 of whom shall be primary consumers and 2 of whom shall be community members.

(b) By agreement with the department, designate the appeals committee appointed by the department to hear appeals of rights complaints brought against the licensed hospital.

(5) An appeals committee appointed under this section may request consultation and technical assistance from the department.

(6) A member of an appeals committee who has a personal or professional relationship with an individual involved in an appeal shall abstain from participating in that appeal as a member of the committee.

Sec. 776. (1) A recipient, or another individual on behalf of a recipient, may file a rights complaint with the office alleging a violation of this act or rules promulgated under this act.

(2) A rights complaint shall contain all of the following information:

(a) A statement of the allegations that give rise to the dispute.

(b) A statement of the right or rights that may have been violated.

(c) The outcome that the complainant is seeking as a resolution to the complaint.

(3) Each rights complaint shall be recorded upon receipt by the office and acknowledgment of the recording shall be sent along with a copy of the complaint to the complainant within 5 business days.

(4) Within 5 business days after the office receives a complaint, it shall notify the complainant if it determines that no investigation of the rights complaint is warranted.

(5) The office shall assist the recipient or other individual with the complaint process. The office shall advise the recipient or other individual that there are advocacy organizations available to assist in preparation of a written rights complaint and shall offer to refer the recipient or other individual to those organizations. In the absence of assistance from an advocacy organization, the office shall assist in preparing a written rights complaint. The office shall inform the recipient or other individual of the option of mediation under section 786.

(6) If a rights complaint has been filed regarding the conduct of the executive director, the rights investigation shall be conducted by the office of another community mental health services program or by the state office of recipient rights as decided by the board.

Sec. 778. (1) The office shall initiate investigation of apparent or suspected rights violations in a timely and efficient manner. Subject to delays involving pending action by external agencies as described in subsection (5), the office shall

complete the investigation not later than 90 days after it receives the rights complaint. Investigation shall be initiated immediately in cases involving alleged abuse, neglect, serious injury, or death of a recipient involving an apparent or suspected rights violation.

(2) Investigation activities for each rights complaint shall be accurately recorded by the office.

(3) The office shall determine whether a right was violated by using the preponderance of the evidence as its standard of proof.

(4) The office shall issue a written status report every 30 calendar days during the course of the investigation. The report shall be submitted to the complainant, the respondent, and the responsible mental health agency. A status report shall include all of the following:

- (a) Statement of the allegations.
- (b) Statement of the issues involved.
- (c) Citations to relevant provisions of this act, rules, policies, and guidelines.
- (d) Investigative progress to date.
- (e) Expected date for completion of the investigation.

(5) Upon completion of the investigation, the office shall submit a written investigative report to the respondent and to the responsible mental health agency. Issuance of the written investigative report may be delayed pending completion of investigations that involve external agencies, including law enforcement agencies and the department of social services. The report shall include all of the following:

- (a) Statement of the allegations.
- (b) Statement of the issues involved.
- (c) Citations to relevant provisions of this act, rules, policies, and guidelines.
- (d) Investigative findings.
- (e) Conclusions.
- (f) Recommendations, if any.

(6) A rights investigation may be reopened or reinvestigated by the office if there is new evidence that was not presented at the time of the investigation.

Sec. 780. (1) If it has been determined through investigation that a right has been violated, the respondent shall take appropriate remedial action that meets all of the following requirements:

- (a) Corrects or provides a remedy for the rights violations.
- (b) Is implemented in a timely manner.
- (c) Attempts to prevent a recurrence of the rights violation.

(2) The action shall be documented and made part of the record maintained by the office.

Sec. 782. (1) The executive director, hospital director, or director of a state facility shall submit a written summary report to the complainant and recipient, if different than the complainant, within 10 business days after the executive director, hospital director, or director of the state facility receives a copy of the investigative report under section 778(5). The summary report shall include all of the following:

- (a) Statement of the allegations.
- (b) Statement of issues involved.
- (c) Citations to relevant provisions of this act, rules, policies, and guidelines.
- (d) Summary of investigative findings.
- (e) Conclusions.
- (f) Recommendations made by the office.
- (g) Action taken, or plan of action proposed, by the respondent.
- (h) A statement describing the complainant's right to appeal and the grounds for an appeal.

(2) Information in the summary report shall be provided within the constraints of sections 748 and 750 and shall not violate the rights of any employee.

Sec. 784. (1) Not later than 45 days after receipt of the summary report under section 782, the complainant may file a written appeal with the appeals committee with jurisdiction over the office of recipient rights that issued the summary report.

(2) An appeal under subsection (1) shall be based on 1 of the following grounds:

- (a) The investigative findings of the office are not consistent with the facts or with law, rules, policies, or guidelines.
- (b) The action taken or plan of action proposed by the respondent does not provide an adequate remedy.
- (c) An investigation was not initiated or completed on a timely basis.

(3) The office shall advise the complainant that there are advocacy organizations available to assist the complainant in preparing the written appeal and shall offer to refer the complainant to those organizations. In the absence of assistance from an advocacy organization, the office shall assist the complainant in meeting the procedural requirements of a written appeal. The office shall also inform the complainant of the option of mediation under section 786.

(4) Within 5 business days after receipt of the written appeal, members of the appeals committee shall review the appeal to determine whether it meets the criteria set forth in subsection (2). If the appeal is denied because the criteria in subsection (2) were not met, the complainant shall be notified in writing. If the appeal is accepted, written notice shall be provided to the complainant and a copy of the appeal shall be provided to the respondent and the responsible mental health agency.

(5) Within 30 days after receipt of a written appeal, the appeals committee shall meet and review the facts as stated in all complaint investigation documents and shall do 1 of the following:

- (a) Uphold the investigative findings of the office and the action taken or plan of action proposed by the respondent.
- (b) Return the investigation to the office and request that it be reopened or reinvestigated.

(c) Uphold the investigative findings of the office but recommend that the respondent take additional or different action to remedy the violation.

(d) If the responsible mental health agency is a community mental health services program or a licensed hospital, recommend that the board of the community mental health services program or the governing board of the licensed hospital request an external investigation by the state office of recipient rights.

(6) The appeals committee shall document its decision in writing. Within 10 working days after reaching its decision, it shall provide copies of the decision to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the responsible mental health agency, and the office.

Sec. 786. (1) Within 45 days after receiving written notice of the decision of an appeals committee under section 784(5), the appellant may file a written appeal with the department. The appeal shall be based on the record established in the previous appeal, and on the allegation that the investigative findings of the local office of recipient rights are not consistent with the facts or with law, rules, policies, or guidelines.

(2) Upon receipt of an appeal under subsection (1), the department shall give written notice of receipt of the appeal to the appellant, respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency. The respondent, local office of recipient rights holding the record of the complaint, and the responsible mental health agency shall ensure that the department has access to all necessary documentation and other evidence cited in the complaint.

(3) The department shall review the record based on the allegation described in subsection (1). The department shall not consider additional evidence or information that was not available during the appeal under section 784, although the department may return the matter to the board or the governing body of the licensed hospital requesting an additional investigation.

(4) Within 30 days after receiving the appeal, the department shall review the appeal and do 1 of the following:

(a) Affirm the decision of the appeals committee.

(b) Return the matter to the board or the governing body of the licensed hospital with instruction for additional investigation and consideration.

(5) The department shall provide copies of its action to the respondent, appellant, recipient if different than the appellant, the recipient's guardian if a guardian has been appointed, the board of the community mental health services program or the governing body of the licensed hospital, and the local office of recipient rights holding the record.

Sec. 788. (1) At any time after the office completes the investigative report, the parties may agree to mediate the dispute. A mediator shall be jointly selected to facilitate a mutually acceptable settlement between the parties. The mediator shall be an individual who has received training in mediation and who is not involved in any manner with the dispute or with the provision of services to the recipient.

(2) If the parties agree to mediation and reach agreement through the mediation process, the mediator shall prepare a report summarizing the agreement, which shall be signed by the parties. The signed agreement shall be binding on both parties. Notice that an agreement has been reached shall be sent to the office.

(3) If the parties fail to reach agreement through the mediation process, the mediator shall document that fact in writing and provide a copy of the documentation to both parties and the office within 10 days after the end of the mediation process.

(4) If the parties engage in mediation, all appeal and response times required under this chapter are suspended during the period of time the mediation process is taking place. The suspension of time periods begins on the day the parties agree to mediate and expires 5 days after the day the mediator provides the written documentation to the parties and the office that mediation was not successful.

Sec. 800. As used in this chapter, unless the context requires otherwise:

(a) "Ability to pay" means the ability of a responsible party to pay for the cost of services, as determined by the department under sections 818 and 819.

(b) "Cost of services" means the total operating and capital costs incurred by the department or a community mental health services program with respect to, or on behalf of, an individual. Cost of services does not include the cost of research programs or expenses of state or county government unrelated to the provision of mental health services.

(c) "Individual" means the individual, minor or adult, who receives services from the department or a community mental health services program or from a provider under contract with the department or a community mental health services program.

(d) "Inpatient services" means 24-hour care and treatment services provided by a state facility or a licensed hospital.

(e) "Insurance benefits" means payments made in accordance with insurance coverage for the cost of health care services provided to an individual.

(f) "Insurance coverage" means any policy, plan, program, or fund established or maintained for the purpose of providing for its participants or their dependents medical, surgical, or hospital benefits. Insurance coverage includes, but is not limited to, medicaid or medicare; policies, plans, programs, or funds maintained by nonprofit hospital service and medical care corporations, health maintenance organizations, and prudent purchaser organizations; and commercial, union, association, self-funded, and administrative service policies, plans, programs, and funds.

(g) "Nonresidential services" means care or treatment services that are not inpatient or residential services.

(h) "Parents" means the legal father and mother of an unmarried individual who is less than 18 years of age.

(i) "Residential services" means 24-hour dependent care and treatment services provided by adult foster care facilities under contract to the department or a community mental health services program or provided directly by a community mental health services program.

(j) "Responsible party" means a person who is financially liable for services furnished to the individual. Responsible party includes the individual and, as applicable, the individual's spouse and parent or parents of a minor.

Sec. 802. Financial liability for services provided to an individual by the department or by community mental health services programs is hereby established as provided in this chapter.

Sec. 804. (1) A responsible party is financially liable for the cost of services provided to the individual directly by or by contract with the department or a community mental health services program.

(2) The department or a community mental health services program shall charge responsible parties for that portion of the financial liability that is not met by insurance coverage. Subject to section 814, the amount of the charge shall be whichever of the following is the least amount:

(a) Ability to pay determined under section 818 or 819.

(b) Cost of services as defined in section 800.

(c) The amount of coinsurance and deductible in accordance with the terms of participation with a payer or payer group.

(3) The department or community mental health services program shall waive payment of that part of a charge determined under subsection (2) that exceeds financial liability. The department or community mental health services program shall not impose charges in excess of ability to pay.

(4) Subject to section 114a, the department may promulgate rules to establish therapeutic nominal charges for certain services. The charges shall not exceed \$3.00 and shall be authorized in the recipient's individual plan of services.

Sec. 806. (1) If the individual is single, insurance coverage and ability to pay shall first be determined for the individual. If the individual is an unmarried minor and the individual's insurance coverage and ability to pay are less than the cost of the services, insurance coverage and ability to pay shall be determined for the parents.

(2) If the individual is married, insurance coverage and ability to pay shall be determined jointly for the individual and the spouse.

Sec. 808. The total combined financial liability of the responsible parties shall not exceed the cost of the services.

Sec. 810. An individual shall not be denied services because of the inability of responsible parties to pay for the services.

Sec. 812. (1) If an individual is covered, in part or in whole, under any type of insurance coverage, private or public, for services provided directly by or by contract with the department or a community mental health services program, the benefits from that insurance coverage are considered to be available to pay the individual's financial liability, notwithstanding that the insurance contract was entered into by a person other than the individual or notwithstanding that the insurance coverage was paid for by a person other than the individual.

(2) Insurance coverage is considered available to pay for the individual's financial liability for services provided by the department or a community mental health services program or its contractee in the amount and to the same extent that coverage would be available to cover the cost of services if the individual had received the services from a health care provider other than the department or a community mental health services program or its contractee.

Sec. 813. The department or a community mental health services program shall be subrogated to a responsible party's right of recovery for insurance benefits for the cost of services to the individual.

Sec. 814. Notwithstanding any other provision of this chapter, if a responsible party willfully fails to provide relevant insurance coverage information to the department or the community mental health services program, or if a responsible party willfully fails to apply to have insurance benefits that cover the cost of services provided to the individual paid to the department or community mental health services program, the responsible party's ability to pay shall be determined to include the amount of insurance benefits that would be available. If the amount of insurance benefits is not known in a case described in this section, the responsible party's ability to pay shall be determined to be the full cost of services.

Sec. 817. (1) For an individual who receives inpatient or residential services on a voluntary or involuntary basis, the department or community mental health services program shall determine the responsible parties' insurance coverage and ability to pay as soon as practical after the individual is admitted.

(2) For an individual who receives nonresidential services, the department or community mental health services program shall determine the responsible parties' insurance coverage and ability to pay before, or as soon as practical after, the start of services.

Sec. 818. (1) The department and community mental health services programs shall determine an adult responsible party's ability to pay for adult inpatient psychiatric services of less than 61 days, all nonresidential services, and all services to minors, on the basis of the adult responsible party's income in accordance with all of the following:

(a) The department or community mental health services program shall consider the adult responsible party's income to be taxable income as set forth in the adult responsible party's most recently filed state income tax return. If the parents of an individual, or the individual and spouse, are members of the same household but file separate income tax returns, the department or community mental health services program shall add together the separate taxable incomes to determine the ability to pay. If the parents or the individual and spouse are not members of the same household and they file separate tax returns, the ability to pay of each parent or of the individual and his or her spouse shall be determined separately.

(b) If an adult responsible party has not filed a state income tax return, the department or community mental health services program shall determine the adult responsible party's income from those financial documents that are legally available, based on the same factors that determine taxable income under subdivision (a).

(c) Relying upon an adult responsible party's income as determined under subdivision (a) or (b), the department and community mental health services programs shall determine ability to pay based on an ability-to-pay schedule developed under subsection (2).

(d) An adult responsible party's ability to pay for a calendar month or any part of a calendar month is the amount specified as the monthly amount in the applicable ability-to-pay schedule.

(e) A parent shall not be determined to have an ability to pay for more than 1 individual at any 1 time, and a parent's total liability for 2 or more individuals shall not exceed 18 years.

(f) If either parent or either spouse has been made solely responsible for an individual's medical and hospital expenses by a court order, the other parent or spouse shall be determined to have no ability to pay. The ability to pay of the parent or spouse made solely responsible by court order shall be determined in accordance with this section. The ability to pay of a parent made solely responsible by court order shall be reduced by the amount of child support the parent pays for the individual.

(g) If an individual receives services for more than 1 year, the department or community mental health services program shall annually redetermine the adult responsible parties' ability to pay on the basis of the most recently filed state income tax return or as provided in subdivision (b).

(2) The department shall promulgate rules to establish an ability-to-pay schedule that is fair and equitable. The schedule may take into consideration geographic cost-of-living differences. The department shall review the ability-to-pay schedule at least every 3 years and shall update the schedule as necessary. The department shall submit proposed rules under this subsection within 6 months after the effective date of the amendatory act that added section 819.

Sec. 819. (1) The department or a community mental health services program shall determine an adult responsible party's ability to pay for residential services and inpatient services other than psychiatric inpatient services of less than 61 days by taking into consideration the adult responsible party's total financial circumstances, including, but not limited to, income, expenses, number and condition of dependents, assets, and liabilities.

(2) The department and community mental health services programs shall determine a minor's ability to pay for the cost of services by considering the minor's total financial circumstances, including, but not limited to, income, expenses, number and condition of dependents, assets, and liabilities.

Sec. 820. Except with respect to inpatient psychiatric services of less than 61 days, the department or a community mental health services program shall determine a spouse's ability to pay for the first 730 days of inpatient or residential services during the individual's lifetime. After the first 730 days, the department or community mental health services program shall determine ability to pay solely for the individual.

Sec. 822. All responsible parties shall make available to the department or community mental health services program any relevant financial information that the department or community mental health services program is not prohibited by law from seeking and obtaining, and that the department or community mental health services program considers essential for the purpose of determining ability to pay. Willful failure to provide the relevant financial information may result in a determination of ability to pay up to the full cost of services received by the individual.

Sec. 824. (1) No determination of ability to pay that is made by the department or community mental health services program shall impose an undue financial burden on the individual or the individual's family members.

(2) In an instance where through no fault of the individual or the individual's family members the department or community mental health services program has not billed for services in a timely manner, an undue financial burden has been created. The department or community mental health services program shall only obligate an individual or the individual's family to pay for services based on their ability to pay when the initial bill for services is presented within 2 years from the date the services were provided.

Sec. 828. The department or community mental health services program shall annually determine the insurance coverage and ability to pay of each individual who continues to receive services and of each additional responsible party, if applicable. The department or community mental health services program shall also complete a new determination of insurance coverage and ability to pay if informed of a significant change in a responsible party's ability to pay.

Sec. 830. The department and community mental health services programs shall inform responsible parties that if their ability to pay has undergone a change, they may request the department or community mental health services program to make a new determination of ability to pay, and the department or community mental health services program shall be required to do so. The new determination of ability to pay shall be made in accordance with this chapter.

Sec. 832. The department and community mental health services programs shall inform responsible parties whose ability to pay was determined under section 818 that if they believe that the income figure being utilized to determine their ability to pay is not appropriate to their current income status or does not appropriately reflect their ability to pay, they may request the department or community mental health services program to make a new determination of ability to pay, and the department or community mental health services program shall be required to do so. If a responsible party has stated that the income figure being utilized is not appropriate to his or her current income status, the department or community mental health services program shall make a new determination of ability to pay based on the responsible party's current annualized Michigan taxable income. If this is not available, other documentation of income as described in section 818(1)(b) shall be used. If a responsible party has stated that the income figure being utilized does not appropriately reflect his or her ability to pay, the department or community mental health services program shall make a new determination of ability to pay based on a consideration of the responsible party's total financial situation as described in section 819. In neither instance, however, shall the new determination of ability to pay be for an amount greater than the original determination.

Sec. 834. The department or community mental health services program shall inform the responsible parties that they have a right, by means of an administrative hearing, to contest an ability to pay determination that has been made by the department or community mental health services program. If the responsible party desires an administrative hearing, the following procedures apply:

(a) The responsible party shall notify the department or community mental health services program in writing or on a form provided by the department or community mental health services program.

(b) An administrative hearing shall be held and the department or community mental health services program shall make a redetermination of ability to pay.

(c) A redetermination of ability to pay pursuant to subdivision (b) shall be made in accordance with this chapter.

Sec. 836. A responsible party may appeal a redetermination of ability to pay made under section 834(b) to the probate court of the county in which he or she resides.

Sec. 838. If the department or a community mental health services program redetermines a responsible party's ability to pay and the amount the responsible party is determined to be able to pay is higher than the amount under previous determinations, the department or community mental health services program shall charge the higher amount only for financial liability that is incurred after the date of the redetermination.

Sec. 901. A mental health professional shall not perform an act, task, or function within the field of mental illness or developmental disability unless he or she has been trained to perform the act, task, or function, or is acting under the direct supervision of an individual who has been trained to perform the act, task, or function.

Sec. 919. (1) The department shall support training, studies, and research as part of its overall responsibility with regard to the prevention of mental disorders and the care, treatment, and support of individuals with mental and emotional disorders and disturbances.

(2) Subject to section 114a, the department shall promulgate rules to set standards for the protection of human subjects in mental health research. The standards shall at a minimum comply with the federal standards for the protection of human subjects in research administered or funded by the United States department of health and human services. All research conducted, sponsored, or funded by the department or a community mental health services program shall comply with the rules promulgated under this subsection.

Sec. 946. (1) If a patient communicates to a mental health professional who is treating the patient a threat of physical violence against a reasonably identifiable third person and the recipient has the apparent intent and ability to carry out that threat in the foreseeable future, the mental health professional has a duty to take action as prescribed in subsection (2). Except as provided in this section, a mental health professional does not have a duty to warn a third person of a threat as described in this subsection or to protect the third person.

(2) A mental health professional has discharged the duty created under subsection (1) if the mental health professional, subsequent to the threat, does 1 or more of the following in a timely manner:

(a) Hospitalizes the patient or initiates proceedings to hospitalize the patient under chapter 4 or 4a.

(b) Makes a reasonable attempt to communicate the threat to the third person and communicates the threat to the local police department or county sheriff for the area where the third person resides or for the area where the patient resides, or to the state police.

(c) If the mental health professional has reason to believe that the third person who is threatened is a minor or is incompetent by other than age, takes the steps set forth in subdivision (b) and communicates the threat to the department of social services in the county where the minor resides and to the third person's custodial parent, noncustodial parent, or legal guardian, whoever is appropriate in the best interests of the third person.

(3) If a patient described in subsection (1) is being treated through team treatment in a hospital, and if the individual in charge of the patient's treatment decides to discharge the duty created in subsection (1) by a means described in subsection (2)(b) or (c), the hospital shall designate an individual to communicate the threat to the necessary persons.

(4) A mental health professional who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 750. A psychiatrist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate the physician-patient privilege established under section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws. A psychologist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18237 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18237 of the Michigan Compiled Laws. A certified social worker, social worker, or social worker technician who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 1610 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1610 of the Michigan Compiled Laws. A licensed professional counselor who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not violate section 18117 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.18117 of the Michigan Compiled Laws. A marriage and family therapist who determines in good faith that a particular situation presents a duty under this section and who complies with the duty does not

violate section 1509 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.1509 of the Michigan Compiled Laws. A music therapist who determines in good faith that a particular situation presents a duty under this section and who complies with this duty does not violate section 4.11 of the professional code of ethics of the national association for music therapy, inc., or the clinical relationships section of the code of ethics of the certification board for music therapists.

(5) This section does not affect a duty a mental health professional may have under any other section of law.

Sec. 1001b. (1) "Place of detention" means a detention facility operated by a political subdivision of the state.

(2) "Prisoner" means a person confined in a state correctional facility, but does not include a person confined pursuant to an order of a juvenile division of the probate court or a person confined in a place of detention.

(3) "Protective environment" means an environment that supports mental health services in accordance with a prisoner's individual plan of services.

(4) "State correctional facility" means a facility operated by the department of corrections for the purpose of supervising and housing prisoners before parole or discharge.

Section 2. Sections 130, 132, 155, 200, 209, 246, 300, 318, 400a, 402, 441, 442, 443, 444, 450, 491, 492, 493, 494, 495, 495a, 496, 497, 498r, 498s, 738, 816, 826, 840, 844, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 934, 935, 936, 942, 950, 951, 952, and 953 of Act No. 258 of the Public Acts of 1974, being sections 330.1130, 330.1132, 330.1155, 330.1200, 330.1209, 330.1246, 330.1300, 330.1318, 330.1400a, 330.1402, 330.1441, 330.1442, 330.1443, 330.1444, 330.1450, 330.1491, 330.1492, 330.1493, 330.1494, 330.1495, 330.1495a, 330.1496, 330.1497, 330.1498r, 330.1498s, 330.1738, 330.1816, 330.1826, 330.1840, 330.1844, 330.1900, 330.1902, 330.1904, 330.1906, 330.1908, 330.1910, 330.1912, 330.1914, 330.1916, 330.1918, 330.1934, 330.1935, 330.1936, 330.1942, 330.1950, 330.1951, 330.1952, and 330.1953 of the Michigan Compiled Laws, are repealed.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved -----

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Governor.

