

HOUSE BILL No. 5490

February 6, 1992, Introduced by Rep. Fitzgerald and referred to the Committee on Mental Health.

A bill to amend sections 1001, 1001a, 1031, and 1050 of Act No. 258 of the Public Acts of 1974, entitled as amended "Mental health code," being sections 330.2001, 330.2001a, 330.2031, and 330.2050 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1001, 1001a, 1031, and 1050 of Act
2 No. 258 of the Public Acts of 1974, being sections 330.2001,
3 330.2001a, 330.2031, and 330.2050 of the Michigan Compiled Laws,
4 are amended to read as follows:

5 Sec. 1001. For the purposes of ~~sections 1001a to 1006~~
6 THIS CHAPTER, the words and phrases defined in sections 1001a and
7 1001b have the meanings ascribed to them in those sections.

8 Sec. 1001a. (1) "CENTER" MEANS THE CENTER FOR FORENSIC
9 PSYCHIATRY ESTABLISHED PURSUANT TO SECTION 128.

1 (2) ~~(1)~~ "Center for forensic psychiatry program" means
2 that program established by the center for forensic psychiatry
3 ~~which responsibilities include the provision of~~ TO PROVIDE
4 mental health care services to certain prisoners under this
5 chapter.

6 (3) ~~(2)~~ "Intensive or specialized care" means the provi-
7 sion of special treatment modalities.

8 (4) ~~(3)~~ "Mental illness" means a substantial disorder of
9 thought or mood ~~which~~ THAT significantly impairs judgment,
10 behavior, capacity to recognize reality, or ability to cope with
11 the ordinary demands of life.

12 (5) ~~(4)~~ "Mentally retarded" means significantly subaverage
13 general intellectual functioning ~~which~~ THAT originates during
14 the developmental period and is associated with impairment in
15 adaptive behavior.

16 Sec. 1031. (1) If the defendant is determined incompetent
17 to stand trial, and if the court determines that there is not a
18 substantial probability that, if provided a course of treatment,
19 ~~he~~ THE DEFENDANT will attain competence to stand trial within
20 the time limit established by section 1034, the court may direct
21 a prosecuting attorney to file a petition asserting that the
22 defendant is a person requiring treatment as defined by section
23 401 or meets the criteria for judicial admission as defined by
24 section 515 with the probate court of the defendant's county of
25 residence.

26 (2) BEFORE OFFERING VOLUNTARY ADMISSION, DISCHARGING,
27 RELEASING FOR AUTHORIZED LEAVE OF 10 DAYS OR LONGER, OR

1 TERMINATING TREATMENT OF A PERSON WHO WAS ADJUDGED INCOMPETENT TO
2 STAND TRIAL UNDER SECTION 1030, A HOSPITAL DIRECTOR OR PROVIDER
3 OF TREATMENT SHALL SEND NOTICE OF THE VOLUNTARY ADMISSION, DIS-
4 CHARGE, RELEASE, OR TERMINATION OF TREATMENT TO THE PROBATE COURT
5 FOR THE COUNTY IN WHICH THE PERSON RESIDES, THE COURT IN WHICH
6 THE CRIMINAL CHARGES WERE BROUGHT, AND THE PROSECUTING ATTORNEY
7 FOR THE COUNTY IN WHICH THE CRIMINAL CHARGES WERE BROUGHT. THE
8 NOTICE SHALL BE SENT BY CERTIFIED MAIL TO A NAMED INDIVIDUAL,
9 RETURN RECEIPT REQUESTED AND DELIVERY RESTRICTED TO THE ADDRESS-
10 EE, AT LEAST 72 HOURS BEFORE THE VOLUNTARY ADMISSION, DISCHARGE,
11 RELEASE, OR TERMINATION OF TREATMENT.

12 Sec. 1050. (1) The court shall immediately commit any
13 person who is acquitted of a criminal charge by reason of insan-
14 ity to the custody of the center for forensic psychiatry, for a
15 period not to exceed 60 days. The court shall forward to the
16 center a full report, in the form of a settled record, of the
17 facts concerning the crime ~~which~~ THAT the patient was found to
18 have committed but of which he OR SHE was acquitted by reason of
19 insanity. The center shall thoroughly examine and evaluate the
20 present mental condition of the person in order to reach an opin-
21 ion on whether the person meets the criteria of a person requir-
22 ing treatment or for judicial admission set forth in section 401
23 or 515.

24 (2) Within the 60-day period the center shall file a report
25 with the court, prosecuting attorney, and defense counsel. THE
26 CENTER SHALL FILE THE REPORT BY HAVING IT PERSONALLY DELIVERED TO
27 THE COURT AND TO EACH ATTORNEY, OR BY MAILING IT TO THE COURT AND

1 THE INDIVIDUAL ATTORNEYS BY CERTIFIED MAIL, RETURN RECEIPT
2 REQUESTED AND DELIVERY RESTRICTED TO THE ADDRESSEE. The report
3 shall contain a summary of the crime ~~which~~ THAT the patient
4 committed but of which he OR SHE was acquitted by reason of
5 insanity and an opinion as to whether the person meets the cri-
6 teria of a person requiring treatment or for judicial admission
7 as defined by section 401 or 515, and the facts upon which the
8 opinion is based. If the opinion stated is that the person is a
9 person requiring treatment, the report shall be accompanied by
10 certificates from 2 ~~physicians~~ CLINICIANS, at least 1 of whom
11 ~~shall be~~ IS a psychiatrist, ~~which~~ THAT conform to the
12 requirements of section ~~400(j)~~ 400(K). FOR PURPOSES OF THIS
13 SUBSECTION, "CLINICIAN" MEANS A PHYSICIAN OR PSYCHOLOGIST AS
14 DEFINED IN SECTION 400.

15 (3) ~~After~~ IMMEDIATELY AFTER receipt of ~~the~~ A report
16 UNDER SUBSECTION (1) CONCLUDING THAT THE PERSON MEETS THE CRI-
17 TERIA FOR JUDICIAL ADMISSION OR A REPORT AND 2 CERTIFICATES CON-
18 CLUDING THAT THE PERSON IS A PERSON REQUIRING TREATMENT, the
19 court ~~may direct~~ SHALL ORDER the prosecuting attorney to file a
20 petition pursuant to section 434 or 516 for an order of hospital-
21 ization or an order of admission to a facility with the probate
22 court of the ~~person's~~ county ~~of residence~~ IN WHICH THE PERSON
23 RESIDES or of the county in which the criminal trial was held.
24 ~~Any~~ THE PROSECUTOR SHALL FILE THE PETITION WITHIN 72 HOURS,
25 EXCLUDING SUNDAYS AND HOLIDAYS, AFTER RECEIPT OF THE COURT'S
26 ORDER TO FILE THE PETITION. THE certificates that accompanied
27 the report of the center ~~may~~ SHALL be filed with the petition,

1 and ~~shall be~~ ARE sufficient to cause a hearing to be held
2 WITHIN 7 DAYS, EXCLUDING SUNDAYS AND HOLIDAYS, pursuant to sec-
3 tion ~~451~~ 452 OR 517 even if they were not executed within 72
4 hours of the filing of the petition. The report from the court
5 containing the facts concerning the crime for which ~~he~~ THE
6 PERSON was acquitted by reason of insanity ~~shall be~~ ARE admis-
7 sible in the hearings. THE CENTER SHALL RETAIN THE PERSON PEND-
8 ING A HEARING ON THE PETITION.

9 (4) ~~If the report states the opinion that the person meets~~
10 ~~the criteria of a person requiring treatment or for judicial~~
11 ~~admission, and if a petition is to be filed pursuant to subsec-~~
12 ~~tion (3), the center shall retain the person pending a hearing on~~
13 ~~the petition. If a petition is not to be filed, the prosecutor~~
14 ~~shall notify the center in writing. The center, upon receipt of~~
15 ~~the notification, shall cause the person to be discharged. IF~~
16 THE REPORT OF THE CENTER FILED UNDER SUBSECTION (1) STATES THE
17 OPINION THAT THE PERSON DOES NOT MEET THE CRITERIA OF A PERSON
18 REQUIRING TREATMENT OR FOR JUDICIAL ADMISSION, THE COURT MAY
19 ORDER THE PROSECUTING ATTORNEY TO FILE A PETITION PURSUANT TO
20 SECTION 434 IF THE PROSECUTING ATTORNEY IS ABLE TO OBTAIN THE
21 CERTIFICATES REQUIRED UNDER SECTION 452(B) OR A PETITION PURSUANT
22 TO SECTION 516. THE COURT SHALL SEND A COPY OF THE ORDER TO THE
23 CENTER. THE PROSECUTING ATTORNEY SHALL FILE THE PETITION WITHIN
24 72 HOURS AFTER RECEIPT OF THE COURT'S ORDER. IF THE COURT DOES
25 NOT ORDER THE PROSECUTOR TO FILE A PETITION, THE COURT SHALL
26 NOTIFY THE CENTER THAT THE PERSON SHALL BE DISCHARGED
27 IMMEDIATELY. IF A PETITION IS FILED, THE CENTER SHALL RETAIN THE

1 PERSON PENDING A HEARING ON THE PETITION. IF THE CENTER DOES NOT
2 RECEIVE NOTICE FROM THE COURT THAT THE PERSON IS TO BE DISCHARGED
3 IMMEDIATELY, OR NOTICE THAT A PETITION HAS BEEN FILED, AND IF THE
4 PERSON IS NOT TO BE ADMITTED VOLUNTARILY, THE CENTER SHALL DIS-
5 CHARGE THE PERSON NO LATER THAN 72 HOURS, EXCLUDING SUNDAYS AND
6 HOLIDAYS, AFTER THE DATE ON WHICH THE PROSECUTOR'S PETITION WAS
7 REQUIRED TO BE FILED.

8 (5) THE COURT SHALL NOT GRANT A DEFERRED HEARING UNDER SEC-
9 TION 455 TO A PERSON WHO WAS ACQUITTED OF A CRIMINAL CHARGE BY
10 REASON OF INSANITY. THE CENTER OR A HOSPITAL SHALL NOT OFFER THE
11 PERSON VOLUNTARY ADMISSION BEFORE A HEARING HAS BEEN HELD UNLESS
12 THE REPORT OF THE CENTER CONCLUDED THAT THE PERSON DOES NOT MEET
13 THE CRITERIA OF A PERSON REQUIRING TREATMENT OR FOR JUDICIAL
14 ADMISSION AND THE TIME PERIOD FOR THE FILING OF A PETITION UNDER
15 SUBSECTION (4) HAS ELAPSED. THE CENTER OR A HOSPITAL SHALL NOT
16 OFFER THE PERSON VOLUNTARY ADMISSION WHILE THE PERSON IS UNDER A
17 COURT ORDER FOR TREATMENT OR ADMISSION.

18 (6) IF A HOSPITAL IS NOT PROHIBITED UNDER SUBSECTION (5)
19 FROM OFFERING VOLUNTARY ADMISSION, AND IT OFFERS THE PERSON VOL-
20 UNTARY ADMISSION AND THE PERSON ACCEPTS, THE HOSPITAL DIRECTOR
21 SHALL SEND A NOTICE OF THE VOLUNTARY ADMISSION TO ALL OF THE
22 FOLLOWING:

23 (A) THE PROBATE COURT FOR THE COUNTY IN WHICH THE PERSON
24 RESIDES.

25 (B) THE COURT IN WHICH THE CRIMINAL CHARGE WAS TRIED.

26 (C) THE PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE
27 CRIMINAL CHARGE WAS TRIED.

1 (7) ~~(5)~~ The release provisions of sections 476 to 479 ~~of~~
2 ~~this act shall~~ AND 525 TO 528 apply to a person ~~found to have~~
3 ~~committed a crime by a court or jury, but~~ who is acquitted OF A
4 CRIMINAL CHARGE by reason of insanity, except ~~that a~~ FOR ALL OF
5 THE FOLLOWING:

6 (A) THE person shall not be discharged or placed on leave
7 without first being evaluated and recommended for discharge or
8 leave by the ~~department's program for forensic psychiatry, and~~
9 ~~authorized~~ CENTER.

10 (B) AT LEAST 72 HOURS, EXCLUDING SUNDAYS AND HOLIDAYS,
11 BEFORE DISCHARGING THE PERSON PURSUANT TO SECTION 476, 479, 525,
12 OR 528 OR RELEASING THE PERSON FOR AUTHORIZED LEAVE OF 10 DAYS OR
13 LONGER, THE HOSPITAL DIRECTOR SHALL SEND NOTICE OF THE DISCHARGE
14 OR RELEASE TO ALL OF THE FOLLOWING:

15 (i) THE PROBATE COURT FOR THE COUNTY IN WHICH THE PERSON
16 RESIDES.

17 (ii) THE COURT IN WHICH THE CRIMINAL CHARGE WAS TRIED.

18 (iii) THE PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE
19 CRIMINAL CHARGE WAS TRIED.

20 (C) AT LEAST 72 HOURS, EXCLUDING SUNDAYS AND HOLIDAYS,
21 BEFORE TERMINATING TREATMENT OF THE PERSON PURSUANT TO SECTION
22 477 OR 526, THE PROVIDER OF THE TREATMENT SHALL SEND NOTICE OF
23 THE TERMINATION TO ALL OF THE FOLLOWING:

24 (i) THE PROBATE COURT FOR THE COUNTY IN WHICH THE PERSON
25 RESIDES.

26 (ii) THE COURT IN WHICH THE CRIMINAL CHARGE WAS TRIED.

1 (iii) THE PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE
2 CRIMINAL CHARGE WAS TRIED.

3 (D) AUTHORIZED leave or absence from the hospital may be
4 extended for a period of 5 years.

5 (E) THE HOSPITAL DIRECTOR SHALL SEND NOTICE TO THE CENTER AT
6 LEAST 28 DAYS BEFORE THE EXPIRATION OF THE PERSON'S COURT ORDER
7 IF THE PERSON IS TO BE DISCHARGED.

8 (8) ALL NOTICES REQUIRED UNDER SUBSECTIONS (6) AND (7) SHALL
9 BE SENT BY CERTIFIED MAIL TO A NAMED INDIVIDUAL, RETURN RECEIPT
10 REQUESTED AND DELIVERY RESTRICTED TO THE ADDRESSEE.