

HOUSE BILL No. 6287

September 29, 2004, Introduced by Reps. Bieda and Gleason and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100a and 161 (MCL 330.1100a and 330.1161),
as amended by 1998 PA 497, and by adding chapter 3A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (2) "Abuse" means nonaccidental physical or emotional harm to
5 a recipient, or sexual contact with or sexual penetration of a
6 recipient as those terms are defined in section 520a of the
7 Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed
8 by an employee or volunteer of the department, a community mental
9 health services program, or a licensed hospital or by an employee
10 or volunteer of a service provider under contract with the

1 department, community mental health services program, or licensed
2 hospital.

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

5 (a) Communication.

6 (b) Self-care.

7 (c) Home living.

8 (d) Social skills.

9 (e) Community use.

10 (f) Self-direction.

11 (g) Health and safety.

12 (h) Functional academics.

13 (i) Leisure.

14 (j) Work.

15 (4) "Adult foster care facility" means an adult foster care
16 facility licensed under the adult foster care facility licensing
17 act, 1979 PA 218, MCL 400.701 to 400.737.

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

20 (6) "Assisted outpatient" means an individual under a court
21 order to receive assisted outpatient treatment.

22 (7) "Assisted outpatient treatment" or "AOT" means the
23 categories of outpatient services ordered by the court under
24 chapter 3A. Assisted outpatient treatment includes intensive
25 case management services or assertive community treatment team
26 services to provide care coordination. Assisted outpatient
27 treatment may include 1 or more of the following categories of

1 services: medication; periodic blood tests or urinalysis to
2 determine compliance with prescribed medications; individual or
3 group therapy; day or partial day programming activities;
4 vocational, educational, or self-help training or activities;
5 alcohol or substance abuse treatment and counseling and periodic
6 tests for the presence of alcohol or illegal drugs for an
7 individual with a history of alcohol or substance abuse;
8 supervision of living arrangements; or other services within a
9 local or unified services plan developed under this act
10 prescribed to treat the individual's mental illness and to assist
11 the individual in living and functioning in the community or to
12 attempt to prevent a relapse or deterioration that may reasonably
13 be predicted to result in suicide or the need for
14 hospitalization.

15 (8) "Assisted outpatient treatment program" means the system
16 to arrange for and coordinate the provision of assisted
17 outpatient treatment, to monitor treatment compliance by assisted
18 outpatients, to evaluate the condition or needs of assisted
19 outpatients, to take appropriate steps to address the needs of
20 assisted outpatients, and to ensure compliance with court
21 orders.

22 (9) "Assisted outpatient treatment program director" means an
23 individual appointed by the director of a community mental health
24 services program to operate, direct, or supervise an assisted
25 outpatient treatment program or, if a community mental health
26 service program does not exist in the community, an assisted
27 outpatient treatment program regional coordinator.

1 (10) "Assisted outpatient treatment regional coordinator"
2 means an individual appointed by the director to act as a liaison
3 between the department and local AOT programs and to perform
4 certain duties as prescribed by the director and as prescribed in
5 this chapter.

6 (11) ~~—(6)—~~ "Board" means the governing body of a community
7 mental health services program.

8 (12) ~~—(7)—~~ "Board of commissioners" means a county board of
9 commissioners.

10 (13) ~~—(8)—~~ "Center" means a facility operated by the
11 department to admit individuals with developmental disabilities
12 and provide habilitation and treatment services.

13 (14) ~~—(9)—~~ "Certification" means formal approval of a program
14 by the department in accordance with standards developed or
15 approved by the department.

16 (15) ~~—(10)—~~ "Child abuse" and "child neglect" mean those
17 terms as defined in section 2 of the child protection law, 1975
18 PA 238, MCL 722.622.

19 (16) ~~—(11)—~~ "Child and adolescent psychiatrist" means 1 or
20 more of the following:

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

27 (b) A psychiatrist employed by or under contract as a child

1 and adolescent psychiatrist with the department or a community
2 mental health services program on March 28, 1996, who has
3 education and clinical experience in the evaluation and treatment
4 of children or adolescents with serious emotional disturbance.

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

8 (17) ~~—(12)—~~ "Children's diagnostic and treatment service"
9 means a program operated by or under contract with a community
10 mental health services program, that provides examination,
11 evaluation, and referrals for minors, including emergency
12 referrals, that provides or facilitates treatment for minors, and
13 that has been certified by the department.

14 (18) ~~—(13)—~~ "Community mental health authority" means a
15 separate legal public governmental entity created under
16 section 205 to operate as a community mental health services
17 program.

18 (19) ~~—(14)—~~ "Community mental health organization" means a
19 community mental health services program that is organized under
20 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,
21 MCL 124.501 to 124.512.

22 (20) ~~—(15)—~~ "Community mental health services program" means
23 a program operated under chapter 2 as a county community mental
24 health agency, a community mental health authority, or a
25 community mental health organization.

26 (21) ~~—(16)—~~ "Consent" means a written agreement executed by a
27 recipient, a minor recipient's parent, or a recipient's legal

1 representative with authority to execute a consent, or a verbal
 2 agreement of a recipient that is witnessed and documented by an
 3 individual other than the individual providing treatment.

4 **(22)** ~~—(17)—~~ "County community mental health agency" means an
 5 official county or multicounty agency created under section 210
 6 that operates as a community mental health services program and
 7 that has not elected to become a community mental health
 8 authority under section 205 or a community mental health
 9 organization under the urban cooperation act of 1967, 1967
 10 (Ex Sess) PA 7, MCL 124.501 to 124.512.

11 **(23)** ~~—(18)—~~ "Dependent living setting" means all of the
 12 following:

13 (a) An adult foster care facility.

14 (b) A nursing home licensed under article 17 of the public
 15 health code, 1978 PA 368, MCL 333.20101 to 333.22260.

16 (c) A home for the aged licensed under article 17 of the
 17 public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

18 **(24)** ~~—(19)—~~ "Department" means the department of community
 19 health.

20 **(25)** ~~—(20)—~~ "Developmental disability" means either of the
 21 following:

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

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

27 (ii) Is manifested before the individual is 22 years ~~old~~ **of**

1 age.

2 (iii) Is likely to continue indefinitely.

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

5 (A) Self-care.

6 (B) Receptive and expressive language.

7 (C) Learning.

8 (D) Mobility.

9 (E) Self-direction.

10 (F) Capacity for independent living.

11 (G) Economic self-sufficiency.

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

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

21 (26) ~~—(21)—~~ "Director" or "**department director**" means the
22 director of the department or his or her designee.

23 (27) ~~—(22)—~~ "Discharge" means an absolute, unconditional
24 release of an individual from a facility by action of the
25 facility or a court.

26 (28) ~~—(23)—~~ "Eligible minor" means an individual less than
27 18 years of age who is recommended in the written report of a

1 multidisciplinary team under rules promulgated by the department
2 of education to be classified as 1 of the following:

3 (a) Severely mentally impaired.

4 (b) Severely multiply impaired.

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

10 **(29)** ~~-(24)-~~ "Emergency situation" means a situation in which
11 an individual is experiencing a serious mental illness or a
12 developmental disability, or a ~~child~~ **minor** is experiencing a
13 serious emotional disturbance, and 1 of the following applies:

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

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

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

1 or to another individual.

2 **(30)** ~~—(25)—~~ "Executive director" means an individual
3 appointed under section 226 to direct a community mental health
4 services program or his or her designee.

5 Sec. 161. In conjunction with community mental health
6 services programs, the department shall conduct annually and
7 forward to the governor and the house and senate appropriations
8 committees, and the senate and house committees with legislative
9 oversight of ~~—social—~~ **human** services and mental health, an
10 evaluation of the family support subsidy program that shall
11 include, but is not limited to, all of the following:

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

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

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

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

27 (e) The geographic distribution of families receiving subsidy

1 payments and, to the extent possible, eligible minors presumed to
2 be eligible for family support subsidy payments.

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

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

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

12 (i) Caseload figures by eligibility category as ~~defined~~
13 **described** in section ~~100a(23)~~ 100a(28).

14 CHAPTER 3A

15 ASSISTED OUTPATIENT TREATMENT

16 Sec. 350. As used in this chapter:

17 (a) "Court" means that term as defined in section 400.

18 (b) "Material change" means an addition to or a deletion from
19 a category of assisted outpatient treatment from a court order
20 issued under this chapter.

21 Sec. 351. Each director of a community mental health
22 services program shall operate, direct, and supervise an assisted
23 outpatient treatment program as provided in this chapter.
24 Directors of community mental health services programs may
25 satisfy the provisions of this section by operating joint
26 assisted outpatient treatment programs. This section does not
27 prohibit the combination or coordination of efforts between local

1 community mental health services programs and hospitals in
2 providing and coordinating assisted outpatient treatment. Upon
3 approval by the department director, a hospital director may
4 operate, direct, and supervise an assisted outpatient treatment
5 program as provided in this chapter.

6 Sec. 353. (1) An individual may be ordered to obtain
7 assisted outpatient treatment if a court finds all of the
8 following:

9 (a) The individual is 18 years of age or older.

10 (b) The individual is suffering from a mental illness.

11 (c) Based on a clinical determination, the individual is
12 unlikely to survive safely in the community without supervision.

13 (d) The individual has a history of lack of compliance with
14 treatment for mental illness or as a result of his or her mental
15 illness, the individual is unlikely to voluntarily participate in
16 treatment recommended in a treatment plan.

17 (e) In view of the individual's treatment history and current
18 behavior, the individual needs assisted outpatient treatment in
19 order to prevent a relapse or deterioration that is likely to
20 result in serious harm to the individual or others.

21 (f) The individual is incapable of making an informed medical
22 decision.

23 (g) It is likely that the individual will benefit from
24 assisted outpatient treatment.

25 (2) If the individual has executed a durable power of
26 attorney or an advance directive, the directions included in the
27 durable power of attorney or advance directive shall be taken

1 into account by the court in creating a written treatment plan.

2 Sec. 355. Nothing in this chapter prevents an individual
3 with a durable power of attorney or advance directive from being
4 subject to a petition under this chapter.

5 Sec. 357. (1) A petition for an order authorizing assisted
6 outpatient treatment may be filed with the court by an individual
7 18 years of age or older.

8 (2) At a minimum, the petition shall state both of the
9 following:

10 (a) Each of the criteria for assisted outpatient treatment
11 required under section 353, including the facts that support the
12 petitioner's belief that the individual who is the subject of the
13 petition meets each criterion.

14 (b) That the subject of the petition is present, or is
15 reasonably believed to be present, in the county in which the
16 petition is filed.

17 (3) The petition shall be accompanied by an affidavit of a
18 physician or licensed psychologist other than the petitioner.
19 The affidavit shall state that either of the following has
20 occurred:

21 (a) Not more than 10 days before the petition is filed, both
22 of the following occurred:

23 (i) The physician or licensed psychologist has personally
24 examined the individual who is the subject of the petition.

25 (ii) The physician or licensed psychologist recommends
26 assisted outpatient treatment for the subject of the petition.

27 (b) Not more than 10 days before the petition is filed, both

1 of the following occurred:

2 (i) The physician or licensed psychologist or his or her
3 designee has made appropriate attempts to elicit the subject of
4 the petition's cooperation but has not been successful in
5 persuading the subject to submit to an examination.

6 (ii) The physician or licensed psychologist has reason to
7 suspect that the subject of the petition meets the criteria for
8 assisted outpatient treatment.

9 Sec. 359. (1) The petitioner shall cause written notice of
10 the petition to be given to the subject of the petition. Notice
11 shall also be given to individuals who are required to receive
12 notice in a hearing under section 453, the subject of the
13 petition's legal counsel, the patient advocate appointed by the
14 subject of the petition, if a patient advocate is known to the
15 petitioner or the community mental health services program
16 director, and the community mental health services program
17 director in the county in which the subject of the petitioner
18 resides, if that community mental health director is not the
19 petitioner.

20 (2) Unless an appearance has been entered on behalf of the
21 subject of a petition, the court shall, within 48 hours after
22 receipt of a petition together with the other documents required
23 by section 357, appoint counsel to represent the subject of the
24 petition. The appointment of counsel and the appointed counsel
25 are subject to the provisions of section 454.

26 Sec. 361. (1) Upon receipt by the court of a petition under
27 this chapter, the court shall promptly set a date for a hearing

1 at a time not later than 7 days after the date on which the court
2 receives the petition, excluding Sundays and holidays. An
3 adjournment of a hearing under this section is permitted only for
4 good cause. In granting an adjournment, the court shall consider
5 the need for further examination by a physician or licensed
6 psychologist and the potential need to provide assisted
7 outpatient treatment expeditiously. The court shall cause the
8 subject of the petition, any other individual receiving notice,
9 the petitioner, the physician or licensed psychologist whose
10 affidavit accompanied the petition, the appropriate community
11 mental health services program director, and other individuals as
12 the court determines necessary to be advised of the adjournment
13 and new hearing date, if a new hearing date has been set.

14 (2) The court shall hear testimony on a petition under this
15 chapter. The court may examine the subject alleged to be in need
16 of assisted outpatient treatment in or out of court. If the
17 subject of the petition does not appear at the hearing and
18 appropriate attempts to elicit the subject of the petition's
19 attendance have failed, the court may conduct the hearing in the
20 subject's absence. If the hearing is conducted without the
21 subject of the petition present, the court shall set forth the
22 factual basis for conducting the hearing without the presence of
23 the subject of the petition.

24 Sec. 363. (1) The subject of a petition under this chapter
25 has the right in a proceeding under this chapter to present
26 documents and witnesses and to cross-examine witnesses.

27 (2) The rules of evidence in civil actions are applicable,

1 except to the extent that specific exceptions have been provided
2 for in this chapter or elsewhere by statute or court rule.

3 Sec. 365. (1) The court shall not order assisted outpatient
4 treatment unless an examining physician or licensed psychologist,
5 who has personally examined the subject of a petition under this
6 chapter within the time period commencing 10 days before the
7 filing of the petition, submits an affidavit that includes, at a
8 minimum, all of the information required under section 367.

9 (2) If the subject of a petition under this chapter refuses
10 to be examined by a physician or licensed psychologist, the court
11 may request the subject to consent to an examination by a
12 physician or licensed psychologist appointed by the court. If
13 the subject of the petition does not consent and the court finds
14 reasonable cause to believe that the allegations in the petition
15 are true, the court may order peace officers to take the subject
16 of the petition into custody and transport him or her to a
17 hospital for examination by a physician or licensed
18 psychologist. The subject of the petition may be retained under
19 a court order issued under this subsection for not more than 24
20 hours.

21 (3) The examination of the subject of a petition under this
22 chapter may be performed by either the physician or licensed
23 psychologist whose affidavit accompanied the petition or by
24 another physician or licensed psychologist who plans to submit an
25 affidavit as the examining physician or licensed psychologist at
26 a hearing initiated under this chapter, if that physician or
27 licensed psychologist is granted privileges by that hospital or

1 otherwise authorized by that hospital to do so.

2 Sec. 367. (1) An affidavit submitted by a physician or
3 licensed psychologist under section 365 shall state all of the
4 following:

5 (a) The facts that support the allegation that the subject of
6 the petition meets each of the criteria for assisted outpatient
7 treatment.

8 (b) The treatment is the least restrictive alternative.

9 (c) A recommended plan for assisted outpatient treatment.

10 (2) If the recommended assisted outpatient treatment plan
11 includes medication, the physician's or licensed psychologist's
12 affidavit shall describe the types or classes of medication that
13 may be authorized and the beneficial and possible detrimental
14 physical and mental effects of the medication. The physician's
15 or licensed psychologist's affidavit shall also recommend whether
16 the medication shall be self-administered or administered by
17 authorized personnel.

18 Sec. 369. (1) The court shall not order assisted outpatient
19 treatment unless an examining physician or licensed psychologist
20 appointed by the assisted outpatient treatment program director
21 develops and provides to the court a proposed written treatment
22 plan. The proposed treatment plan shall include case management
23 services or assertive community treatment teams to provide care
24 coordination.

25 (2) If a proposed treatment plan includes medication, the
26 proposed treatment plan shall state whether the medication should
27 be self-administered or administered by authorized personnel and

1 shall specify the type or types of medication most likely to
2 provide maximum benefit for the subject of the petition under
3 this chapter.

4 (3) In developing a proposed treatment plan, the physician or
5 licensed psychologist shall provide an opportunity to actively
6 participate in the development of the plan to all of the
7 following individuals:

8 (a) The subject of the petition.

9 (b) If applicable, the subject of the petition's guardian.

10 (c) If applicable, the psychiatrist, physician, or licensed
11 psychologist who has been providing services to the subject of
12 the petition.

13 (d) Upon the request of the subject of the petition, an
14 individual designated by the subject of the petition.

15 (e) A relative, a close friend, or an individual otherwise
16 concerned with the welfare of the subject of the petition.

17 (f) If applicable, the patient advocate.

18 (4) If the petitioner is a director of a community mental
19 health services program or his or her designee, the proposed
20 treatment plan shall be provided to the court before the hearing
21 on the petition. If the petitioner is an individual other than
22 the director of a community mental health services program or his
23 or her designee, the proposed treatment plan shall be provided to
24 the court no later than the date set by the court under section
25 373.

26 Sec. 371. The court shall not order assisted outpatient
27 treatment unless a physician or licensed psychologist submits an

1 affidavit to explain the proposed treatment plan. The
2 physician's or licensed psychologist's affidavit shall state the
3 categories of assisted outpatient treatment recommended, the
4 rationale for each category, facts that establish that the
5 treatment is the least restrictive alternative, and, if the
6 recommended assisted outpatient treatment includes medication,
7 the types or classes of medication recommended, the beneficial
8 and possible detrimental physical and mental effects of the
9 medication, and whether the medication shall be self-administered
10 or administered by an authorized professional.

11 Sec. 373. (1) If, after hearing all relevant evidence, the
12 court finds that the subject of a petition under this chapter
13 does not meet the criteria for assisted outpatient treatment, the
14 court shall dismiss the petition.

15 (2) If, after hearing all relevant evidence, the court finds
16 by clear and convincing evidence that the subject of a petition
17 under this chapter meets the criteria for assisted outpatient
18 treatment and that there is no appropriate less restrictive
19 alternative, the court may order the subject of the petition to
20 receive assisted outpatient treatment for an initial period not
21 to exceed 6 months. The order shall set forth an assisted
22 outpatient treatment plan that shall include all of the
23 categories of assisted outpatient treatment that the subject of
24 the petition shall receive. The court shall not order treatment
25 that has not been recommended by the examining physician or
26 licensed psychologist or included in the proposed treatment plan
27 for assisted outpatient treatment.

1 (3) If, after hearing all relevant evidence, the court finds
2 by clear and convincing evidence that the subject of a petition
3 under this chapter meets the criteria for assisted outpatient
4 treatment but has not yet been provided with a proposed treatment
5 plan and an affidavit as required under this chapter, the court
6 shall order the community mental health services program director
7 or his or her designee to provide the court with the proposed
8 treatment plan and affidavit not later than 6 days after the date
9 of the order, excluding Sundays and holidays. The court may
10 order the subject of the petition to be retained for an
11 examination by a physician or licensed psychologist designated by
12 the community mental health services program director or his or
13 her designee. The subject of the petition may be retained under
14 a court order issued under this subsection for not more than 24
15 hours. After receiving a proposed treatment plan and an
16 affidavit, the court may order assisted outpatient treatment as
17 provided in this chapter.

18 Sec. 375. A court may order the subject of a petition to
19 self-administer psychotropic drugs or accept the administration
20 of psychotropic drugs by authorized personnel. The order may
21 specify the types of psychotropic drugs. The order is effective
22 for the duration of the assisted outpatient treatment.

23 Sec. 377. A court order for assisted outpatient treatment
24 issued under this chapter shall direct the community mental
25 health services program director or his or her designee to
26 provide or arrange for all categories of assisted outpatient
27 treatment for the assisted outpatient throughout the period

1 specified in the order.

2 Sec. 379. The assisted outpatient treatment program
3 director shall provide a written report to the applicable
4 community mental health services program director within 5 days
5 after the date the court order is issued. The written report
6 shall include, but is not limited to, all of the following:

7 (a) A copy of the court order.

8 (b) A copy of the written treatment plan.

9 (c) The identity of the case manager or assertive community
10 treatment team, including the name and contact data of the
11 organization that the case manager or assertive community
12 treatment team member represents.

13 (d) The identity of the service providers.

14 (e) The date on which services began or will begin.

15 Sec. 381. The assisted outpatient treatment program
16 director or his or her designee shall petition the court for
17 approval before instituting a proposed material change in the
18 assisted outpatient treatment order unless the change is
19 addressed in the order. A change that is not a material change
20 may be instituted by the assisted outpatient treatment program
21 director without prior court approval. Notice of a petition
22 filed under this section shall be served on the individuals
23 required to be served under section 359.

24 Sec. 383. (1) If the assisted outpatient treatment program
25 director or his or her designee determines that the assisted
26 outpatient requires further assisted outpatient treatment, the
27 assisted outpatient treatment program director or his or her

1 designee shall petition the court before the expiration of the
2 period of assisted outpatient treatment ordered by the court for
3 a subsequent order authorizing continued assisted outpatient
4 treatment for a period of not more than 1 year from the
5 expiration date of the original order for assisted outpatient
6 treatment. If the assisted outpatient treatment program director
7 has not petitioned the court for a subsequent order under this
8 section within 15 days before the expiration date of the period
9 of assisted outpatient treatment ordered by the court, a parent,
10 guardian, spouse, sibling, or child of an assisted outpatient may
11 petition for a subsequent order. The period of a subsequent
12 order obtained under this section shall not exceed 1 year.

13 (2) Except as provided in subsection (3), the procedure for
14 obtaining an order under this section shall be in accordance with
15 the provisions of obtaining an original order for assisted
16 outpatient treatment.

17 (3) If the petitioner is an assisted outpatient treatment
18 program director and the assisted outpatient informs the court by
19 affidavit that he or she agrees to continued assisted outpatient
20 treatment, the court may order continued assisted outpatient
21 treatment under this section without a hearing.

22 (4) If a petition for a subsequent assisted outpatient
23 treatment order has been filed, the initial order for assisted
24 outpatient treatment remains in effect until a hearing is held on
25 that petition.

26 Sec. 385. In addition to another right or remedy available
27 by law with respect to an order for assisted outpatient

1 treatment, on notice to the assisted outpatient treatment program
2 director and the original petitioner, the patient, his or her
3 guardian, or his or her legal counsel may apply to the court to
4 stay, vacate, or modify the order.

5 Sec. 387. (1) If, in the clinical judgment of a physician
6 or licensed psychologist, an assisted outpatient has failed or
7 refused to comply with the treatment ordered by the court and
8 efforts have been made to solicit compliance, the assisted
9 outpatient treatment program director or his or her designee
10 shall direct a peace officer to take into protective custody and
11 transport the assisted outpatient to a facility designated to
12 receive assisted outpatients by the community mental health
13 services program director for an examination to determine if the
14 assisted outpatient has a mental illness for which involuntary
15 mental health treatment is necessary under this act. A peace
16 officer contacted under this subsection shall carry out this
17 directive.

18 (2) If an assisted outpatient is taken into protective
19 custody under this section, the assisted outpatient may be
20 retained for up to 72 hours for observation, care, and treatment
21 and for further examination in the hospital to allow a physician
22 or licensed psychologist to determine whether the assisted
23 outpatient has a mental illness and is in need of involuntary
24 mental health treatment in a hospital in accordance with this
25 act. Continued involuntary hospitalization after the initial
26 72-hour period shall be in accordance with the provisions of this
27 act relating to the involuntary hospitalization of an

1 individual. If at any time during the 72-hour period the
2 assisted outpatient is determined not to meet the involuntary
3 hospitalization provisions of this act and does not agree to stay
4 in the hospital as a voluntary or informal patient, he or she
5 shall be released.

6 Sec. 389. (1) An assisted outpatient may be medicated or
7 tested over his or her objection if both of the following occur:

8 (a) The assisted outpatient fails or refuses to take
9 medication or submit to testing as required by a court order
10 issued under this chapter.

11 (b) The assisted outpatient treatment program's physician or
12 licensed psychologist determines that there have been sufficient
13 efforts to solicit the assisted outpatient's compliance with the
14 requirements of the court order described in subdivision (a).

15 (2) If it is necessary to enforce a court order under the
16 condition set forth in subsection (1), that enforcement may occur
17 either at the assisted outpatient's residence or at a treatment
18 center designated by the community mental health services program
19 director or his or her designee, whichever location the assisted
20 outpatient chooses.

21 (3) An assisted outpatient who physically resists treatment
22 or testing as described in subsection (1) shall be transported to
23 a treatment center designated by the community mental health
24 services program director or his or her designee where a
25 physician or licensed psychologist shall administer the
26 medication or testing in a manner that is clinically appropriate,
27 safe, and consistent with the assisted outpatient's dignity and

1 privacy. Subsequent retention of an assisted outpatient shall
2 only be made according to other provisions of this act.

3 (4) Upon request of an assisted outpatient's assisted
4 outpatient treatment program physician or licensed psychologist,
5 an assisted outpatient treatment program director, or an assisted
6 outpatient treatment director's designee, a peace officer shall
7 take the assisted outpatient into protective custody and
8 transport him or her to a treatment center designated by the
9 community mental health services program director or his or her
10 designee. An assisted outpatient may be retained at a treatment
11 center for only the time period reasonably necessary to
12 administer treatment or testing as provided under this section.

13 Sec. 391. The determination by a court that an individual
14 is in need of assisted outpatient treatment under this chapter is
15 not a determination that the individual is an incapacitated
16 individual as defined in section 1105 of the estates and
17 protected individuals code, 1998 PA 386, MCL 700.1105.

18 Sec. 393. An individual making a false statement or
19 providing false information or false testimony in a petition or
20 hearing under this chapter is subject to criminal prosecution.

21 Sec. 395. Nothing in this chapter affects the ability of a
22 hospital director to receive, admit, or retain patients who
23 otherwise meet the provisions of this act regarding receipt,
24 retention, or admission.

25 Sec. 397. The department, in consultation with the state
26 court administrative office, shall prepare educational and
27 training materials on the use of this chapter that shall be made

1 available to local governmental units, providers of mental health
2 services, judges, court personnel, law enforcement officials, and
3 the general public.