

Act No. 498
Public Acts of 2004
Approved by the Governor
December 27, 2004
Filed with the Secretary of State
December 29, 2004
EFFECTIVE DATE: March 30, 2005

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senators Bernero, George, Cropsey, Brater, McManus, Goschka, Birkholz, Schauer and Thomas

ENROLLED SENATE BILL No. 685

AN ACT to amend 1974 PA 258, entitled "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," by amending sections 472a, 473, and 475 (MCL 330.1472a, 330.1473, and 330.1475), sections 472a and 475 as added and section 473 as amended by 1996 PA 588.

The People of the State of Michigan enact:

Sec. 472a. (1) Upon the receipt of an application under section 423 or a petition under section 434 and a finding that an individual is a person requiring treatment, the court shall issue an initial order of involuntary mental health treatment that shall be limited in duration as follows:

(a) An initial order of hospitalization shall not exceed 60 days.

(b) Except as provided in subdivision (d), an initial order of alternative treatment shall not exceed 90 days.

(c) Except as provided in subdivision (e), an initial order of combined hospitalization and alternative treatment shall not exceed 90 days. The hospitalization portion of the initial order shall not exceed 60 days.

(d) An initial order of assisted outpatient treatment shall not exceed 180 days.

(e) An initial order of combined hospitalization and assisted outpatient treatment shall not exceed 180 days. The hospitalization portion of the initial order shall not exceed 60 days.

(2) Upon the receipt of a petition under section 473 before the expiration of an initial order under subsection (1) and a finding that the individual continues to be a person requiring treatment, the court shall issue a second order for involuntary mental health treatment that shall be limited in duration as follows:

(a) A second order of hospitalization shall not exceed 90 days.

(b) A second order of alternative treatment or assisted outpatient treatment shall not exceed 1 year.

(c) A second order of combined hospitalization and alternative treatment or assisted outpatient treatment shall not exceed 1 year. The hospitalization portion of the second order shall not exceed 90 days.

(3) Upon the receipt of a petition under section 473 before the expiration of a second order under subsection (2) and a finding that the individual continues to be a person requiring treatment, the court shall issue a continuing order for involuntary mental health treatment that shall be limited in duration as follows:

(a) A continuing order of hospitalization shall not exceed 1 year.

(b) A continuing order of alternative treatment or assisted outpatient treatment shall not exceed 1 year.

(c) A continuing order of combined hospitalization and alternative treatment or assisted outpatient treatment shall not exceed 1 year. The hospitalization portion of a continuing order for combined hospitalization and alternative treatment or assisted outpatient treatment shall not exceed 90 days.

(4) Upon the receipt of a petition under section 473 before the expiration of a continuing order of involuntary mental health treatment, including a continuing order issued under section 485a or a 1-year order of hospitalization issued under former section 472, and a finding that the individual continues to be a person requiring treatment, the court shall issue another continuing order for involuntary mental health treatment as provided in subsection (3) for a period not to exceed 1 year. The court shall continue to issue consecutive 1-year continuing orders for involuntary mental health treatment under this section until a continuing order expires without a petition having been filed under section 473 or the court finds that the individual is not a person requiring treatment.

(5) If a petition for an order of involuntary mental health treatment is not brought under section 473 at least 14 days before the expiration of an order of involuntary mental health treatment as described in subsections (2) to (4), a person who believes that an individual continues to be a person requiring treatment may file a petition under section 434 for an initial order of involuntary mental health treatment as described in subsection (1).

(6) An individual who on March 28, 1996 was subject to an order of continuing hospitalization for an indefinite period of time shall be brought for hearing no later than 15 days after the date of the second 6-month review that occurs after March 28, 1996. If the court finds at the hearing that the individual continues to be a person requiring treatment, the court shall enter a continuing order of involuntary mental health treatment as described in subsection (3).

Sec. 473. Not less than 14 days before the expiration of an initial, second, or continuing order of involuntary mental health treatment issued under section 472a or section 485a, a hospital director or an agency or mental health professional supervising an individual's alternative treatment or assisted outpatient treatment shall file a petition for a second or continuing order of involuntary mental health treatment if the hospital director or supervisor believes the individual continues to be a person requiring treatment and that the individual is likely to refuse treatment on a voluntary basis when the order expires. The petition shall contain a statement setting forth the reasons for the hospital director's or supervisor's or their joint determination that the individual continues to be a person requiring treatment, a statement describing the treatment program provided to the individual, 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. 475. (1) During the period of an order for alternative treatment or combined hospitalization and alternative treatment, if the agency or mental health professional who is supervising an individual's alternative treatment program determines that the individual is not complying with the court order or that the alternative treatment has not been or will not be sufficient to prevent harm that the individual may inflict on himself or herself or upon others, then the supervising agency or mental health professional shall notify the court immediately. If the individual believes that the alternative treatment program is not appropriate, the individual may notify the court of that fact.

(2) If it comes to the attention of the court that an individual subject to an order of alternative treatment or combined hospitalization and alternative treatment is not complying with the order, that the alternative treatment has not been or will not be sufficient to prevent harm to the individual or to others, or that the individual believes that the alternative treatment program is not appropriate, the court may do either of the following without a hearing and based upon the record and other available information:

(a) Consider other alternatives to hospitalization and modify the order to direct the individual to undergo another program of alternative treatment for the duration of the order.

(b) Modify the order to direct the individual to undergo hospitalization or combined hospitalization and alternative treatment. The duration of the hospitalization, including the number of days the individual has already been hospitalized if the order being modified is a combined order, shall not exceed 60 days for an initial order or 90 days for a second or continuing order. The modified order may provide that if the individual refuses to comply with the psychiatrist's order to return to the hospital, a peace officer shall take the individual into protective custody and transport the individual to the hospital selected.

(3) During the period of an order for assisted outpatient treatment, if the agency or mental health professional who is supervising an individual's assisted outpatient treatment determines that the individual is not complying with the court order, the supervising agency or mental health professional shall notify the court immediately.

(4) If it comes to the attention of the court that an individual subject to an order of assisted outpatient treatment is not complying with the order, the court may require 1 or more of the following, without a hearing:

(a) That the individual be taken to the preadmission screening unit established by the community mental health services program serving the community in which the individual resides.

(b) That the individual be hospitalized for a period of not more than 10 days.

(c) Upon recommendation by the community mental health services program serving the community in which the individual resides, that the individual be hospitalized for a period of more than 10 days, but not longer than the duration of the order for assisted outpatient treatment or not longer than 90 days, whichever is less.

(5) The court may direct peace officers to transport the individual to a designated facility or a preadmission screening unit, as applicable, and the court may specify conditions under which the individual may return to assisted outpatient treatment before the order expires.

(6) An individual hospitalized without a hearing as provided in subsection (4) may object to the hospitalization according to the provisions of section 475a.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 683.
- (b) Senate Bill No. 684.
- (c) Senate Bill No. 686.
- (d) Senate Bill No. 1464.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

.....
Governor