

# HOUSE BILL No. 5923

March 30, 2006, Introduced by Reps. Amos, Tobocman, Accavitti, Meisner, Leland, Kolb, Anderson, Mortimer, Sheltroun, Alma Smith, Vagnozzi, Donigan, Plakas, Farrah, Gleason, Cushingberry and Zelenko and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending section 754 (MCL 330.1754), as amended by 1995 PA 290.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 754. (1) The department shall establish a state office of  
2       recipient rights subordinate only to the director. ~~of the~~  
3       ~~department.~~

4       (2) The department shall ensure all of the following:

5       (a) The process for funding the state office of recipient  
6       rights includes a review of the funding by the state recipient  
7       rights advisory committee.

8       (b) The state office of recipient rights will be protected  
9       from pressures that could interfere with the impartial, even-

1 handed, and thorough performance of its duties.

2 (c) The state office of recipient rights will have unimpeded  
3 access to all of the following:

4 (i) All programs and services operated by or under contract  
5 with the department except where other recipient rights systems  
6 authorized by this act exist.

7 (ii) All staff employed by or under contract with the  
8 department.

9 (iii) All evidence necessary to conduct a thorough investigation  
10 or to fulfill its monitoring function.

11 (d) Staff of the state office of recipient rights receive  
12 training each year in recipient rights protection.

13 (e) Each contract between the department and a provider  
14 requires both of the following:

15 (i) That the provider and his or her employees receive annual  
16 training in recipient rights protection.

17 (ii) That recipients will be protected from rights violations  
18 while they are receiving services under the contract.

19 (f) Technical assistance and training in recipient rights  
20 protection are available to all community mental health services  
21 programs and other mental health service providers subject to this  
22 act.

23 (3) The department shall endeavor to ensure all of the  
24 following:

25 (a) The state office of recipient rights has sufficient staff  
26 and other resources necessary to perform the duties described in  
27 this section.

1 (b) Complainants, staff of the state office of recipient  
2 rights, and any staff acting on behalf of a recipient will be  
3 protected from harassment or retaliation resulting from recipient  
4 rights activities.

5 (c) Appropriate remedial action is taken to resolve violations  
6 of rights and notify the complainants of substantiated violations  
7 in a manner that does not violate employee rights.

8 (4) After consulting with the state recipient rights advisory  
9 committee, the **DEPARTMENT** director ~~of the department~~ shall select  
10 a director of the state office of recipient rights who has the  
11 education, training, and experience to fulfill the responsibilities  
12 of the office. The **DEPARTMENT** director ~~of the department~~ shall  
13 not replace or dismiss the director of the state office of  
14 recipient rights without first consulting the state recipient  
15 rights advisory committee. The director of the state office of  
16 recipient rights shall have no direct service responsibility. **THE**  
17 **DIRECTOR OF THE STATE OFFICE OF RECIPIENT RIGHTS SHALL REPORT**  
18 **DIRECTLY AND SOLELY TO THE DEPARTMENT DIRECTOR. THE DEPARTMENT**  
19 **DIRECTOR SHALL NOT DELEGATE HIS OR HER RESPONSIBILITY UNDER THIS**  
20 **SUBSECTION.**

21 (5) The state office of recipient rights may do all of the  
22 following:

23 (a) Investigate apparent or suspected violations of the rights  
24 guaranteed by this chapter.

25 (b) Resolve disputes relating to violations.

26 (c) Act on behalf of recipients to obtain appropriate remedies  
27 for any apparent violations.

1 (d) Apply for and receive grants, gifts, and bequests ~~in~~  
2 ~~order~~ to effectuate any purpose of this chapter.

3 (6) The state office of recipient rights shall do all of the  
4 following:

5 (a) Ensure that recipients, parents of minor recipients, and  
6 guardians or other legal representatives have access to summaries  
7 of the rights guaranteed by this chapter and chapter 7a and are  
8 notified of those rights in an understandable manner, both at the  
9 time services are requested and periodically during the time  
10 services are provided to the recipient.

11 (b) Ensure that the telephone number and address of the office  
12 of recipient rights and the names of rights officers are  
13 conspicuously posted in all service sites.

14 (c) Maintain a record system for all reports of apparent or  
15 suspected rights violations received, including a mechanism for  
16 logging in all complaints and a mechanism for secure storage of all  
17 investigative documents and evidence.

18 (d) Initiate actions that are appropriate and necessary to  
19 safeguard and protect rights guaranteed by this chapter to  
20 recipients of services provided directly by the department or by  
21 its contract providers other than community mental health services  
22 programs.

23 (e) Receive reports of apparent or suspected violations of  
24 rights guaranteed by this chapter. The state office of recipient  
25 rights shall refer reports of apparent or suspected rights  
26 violations to the recipient rights office of the appropriate  
27 provider to be addressed by the provider's internal rights

1 protection mechanisms. The state office shall intervene as  
2 necessary to act on behalf of recipients in situations in which the  
3 director of the department considers the rights protection system  
4 of the provider to be out of compliance with this act and rules  
5 promulgated under this act.

6 (f) Upon request, advise recipients of the process by which a  
7 rights complaint or appeal may be made and assist recipients in  
8 preparing written rights complaints and appeals.

9 (g) Advise recipients that there are advocacy organizations  
10 available to assist recipients in preparing written rights  
11 complaints and appeals and offer to refer recipients to those  
12 organizations.

13 (h) Upon receipt of a complaint, advise the complainant of the  
14 complaint process, appeal process, and mediation option.

15 (i) Ensure that each service site operated by the department  
16 or by a provider under contract with the department, other than a  
17 community mental health services program, is visited by recipient  
18 rights staff with the frequency necessary for protection of rights  
19 but in no case less than annually.

20 (j) Ensure that all individuals employed by the department  
21 receive department-approved training related to recipient rights  
22 protection before or within 30 days after being employed.

23 (k) Ensure that all reports of apparent or suspected  
24 violations of rights within state facilities or programs operated  
25 by providers under contract with the department other than  
26 community mental health services programs are investigated in  
27 accordance with section 778 and that those reports that do not

1 warrant investigation are recorded in accordance with subdivision  
2 (c).

3 (l) Review semiannual statistical rights data submitted by  
4 community mental health services programs and licensed hospitals to  
5 determine trends and patterns in the protection of recipient rights  
6 in the public mental health system and provide a summary of the  
7 data to community mental health services programs and to the  
8 director of the department.

9 (m) Serve as consultant to the director in matters related to  
10 recipient rights.

11 (n) At least quarterly, provide summary complaint data  
12 consistent with the annual report required in subdivision (o),  
13 together with a summary of remedial action taken on substantiated  
14 complaints, to the department and the state recipient rights  
15 advisory committee.

16 (o) Submit to the **DEPARTMENT** director ~~of the department~~ and  
17 to the committees and subcommittees of the legislature with  
18 legislative oversight of mental health matters, for availability to  
19 the public, an annual report on the current status of recipient  
20 rights for the state. The report shall be submitted not later than  
21 March 31 of each year for the preceding fiscal year. The annual  
22 report shall include, at a minimum, all of the following:

23 (i) Summary data by type or category regarding the rights of  
24 recipients receiving services from the department including the  
25 number of complaints received by **EACH** state facility and other  
26 state-operated placement agency, the number of reports filed, and  
27 the number of reports investigated.

1           (ii) The number of substantiated rights violations by category  
2 and by state facility.

3           (iii) The remedial actions taken on substantiated rights  
4 violations by category and by state facility.

5           (iv) Training received by staff of the state office of  
6 recipient rights.

7           (v) Training provided by the state office of recipient rights  
8 to staff of contract providers.

9           (vi) Outcomes of assessments of the recipient rights system of  
10 each community mental health services program.

11           (vii) Identification of patterns and trends in rights  
12 protection in the public mental health system in this state.

13           (viii) Review of budgetary issues including staffing and  
14 financial resources.

15           (ix) Summary of the results of any consumer satisfaction  
16 surveys conducted.

17           (x) Recommendations to the department.

18           (p) Provide education and training to its recipient rights  
19 advisory committee and its recipient rights appeals committee.