

HOUSE BILL No. 6084

December 6, 2012, Introduced by Rep. Lipton and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 401 (MCL 330.1401), as amended by 2004 PA 496.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) An individual who has mental illness ~~, and who as a result~~
4 ~~of that mental illness can reasonably be expected within the near~~
5 ~~future to intentionally or unintentionally seriously physically~~
6 ~~injure himself, herself, or another individual, and who has engaged~~
7 ~~in an act or acts or made significant threats that are~~
8 ~~substantially supportive of the expectation~~ **WHOSE JUDGMENT IS SO**
9 **IMPAIRED THAT HE OR SHE IS UNABLE TO UNDERSTAND HIS OR HER NEED FOR**
10 **TREATMENT AND WHOSE CONTINUED BEHAVIOR AS THE RESULT OF THIS MENTAL**

1 ILLNESS CAN REASONABLY BE EXPECTED, ON THE BASIS OF COMPETENT
2 CLINICAL OPINION, TO RESULT IN HARM TO HIMSELF, HERSELF, OR OTHERS.

3 (b) An individual who has mental illness, and who as a result
4 of that mental illness is ~~unable to attend~~ **INCAPABLE OF ATTENDING**
5 to those of his or her basic physical needs such as food, clothing,
6 or shelter that must be attended to in order for the individual to
7 avoid ~~serious harm, in the near future,~~ and who has demonstrated
8 that ~~inability~~ **INCAPACITY** by failing to attend to those basic
9 physical needs.

10 (c) An individual who has mental illness ~~, whose judgment is~~
11 ~~so impaired that he or she is unable to understand his or her need~~
12 ~~for treatment and whose continued behavior as the result of this~~
13 ~~mental illness can reasonably be expected, on the basis of~~
14 ~~competent clinical opinion, to result in significant physical harm~~
15 ~~to himself, herself, or others. This individual shall receive~~
16 ~~involuntary mental health treatment initially only under the~~
17 ~~provisions of sections 434 through 438.~~ **AND WHOSE JUDGMENT IS SO**
18 **IMPAIRED THAT HE OR SHE IS UNABLE TO UNDERSTAND HIS OR HER NEED FOR**
19 **TREATMENT, AND THIS LACK OF UNDERSTANDING CAN REASONABLY BE**
20 **EXPECTED, ON THE BASIS OF COMPETENT CLINICAL OPINION, TO RESULT IN**
21 **HARM TO HIMSELF, HERSELF, OR OTHERS IN THE NEAR FUTURE.**

22 (d) An individual who has mental illness, whose understanding
23 of the need for treatment is impaired to the point that he or she
24 is unlikely to participate in treatment voluntarily, who is
25 currently noncompliant with treatment that has been recommended by
26 a mental health ~~, professional~~ and that has been determined to be
27 necessary to prevent a relapse or harmful deterioration of his or

1 her condition and whose noncompliance with treatment has been a
2 factor in the individual's placement in a psychiatric hospital,
3 prison, or jail at least 2 times within the last 48 months or whose
4 noncompliance with treatment has been a factor in the individual's
5 committing 1 or more acts, attempts, or threats of serious violent
6 behavior within the last 48 months. An individual under this
7 subdivision is only eligible to receive assisted outpatient
8 treatment under section 433 or 469a.

9 **(2) THE COURT SHALL APPLY AND CONSIDER EACH CRITERIA IN**
10 **SUBSECTION (1) (A) TO (D) BEFORE DETERMINING THAT THE INDIVIDUAL IS**
11 **A PERSON REQUIRING TREATMENT.**

12 **(3) ~~(2)~~**—An individual whose mental processes have been
13 weakened or impaired by a dementia, an individual with a primary
14 diagnosis of epilepsy, or an individual with alcoholism or other
15 drug dependence is not a person requiring treatment under this
16 chapter unless the individual also meets the criteria specified in
17 subsection (1). An individual described in this subsection may be
18 hospitalized under the informal or formal voluntary hospitalization
19 provisions of this chapter if he or she is considered clinically
20 suitable for hospitalization by the hospital director.