

# SENATE BILL No. 805

February 20, 2014, Introduced by Senators WARREN, CASWELL, HOPGOOD, MARLEAU, BOOHER, ROBERTSON, SCHUITMAKER, CASPERSON, ROCCA, ANDERSON, COLBECK, JANSEN, JONES, WHITMER, ANANICH, HANSEN, NOFS, EMMONS, PAPPAGEORGE, BIEDA, HILDENBRAND, KOWALL, MOOLENAAR and JOHNSON and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 100b, 134a, 504, 515, 932, 1001a, 1003, 1003a, 1003b, 1003c, 1004, 1005d, and 1006 (MCL 330.1100b, 330.1134a, 330.1504, 330.1515, 330.1932, 330.2001a, 330.2003, 330.2003a, 330.2003b, 330.2003c, 330.2004, 330.2005d, and 330.2006), section 100b as amended by 2012 PA 500, section 134a as amended by 2010 PA 293, section 515 as amended by 1995 PA 290, sections 1001a, 1003a, 1003b, 1004, 1005d, and 1006 as amended and section 1003c as added by 1993 PA 252, and section 1003 as amended by 2007 PA 112.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 100b. (1) "Facility" means a residential facility for the  
2 care or treatment of individuals with serious mental illness,  
3 serious emotional disturbance, or developmental disability that is  
4 either a state facility or a licensed facility.

1           (2) "Family" as used in sections 156 to 161 means an eligible  
2 minor and his or her parent or legal guardian.

3           (3) "Family member" means a parent, stepparent, spouse,  
4 sibling, child, or grandparent of a primary consumer, or an  
5 individual upon whom a primary consumer is dependent for at least  
6 50% of his or her financial support.

7           (4) "Federal funds" means funds received from the federal  
8 government under a categorical grant or similar program and does  
9 not include federal funds received under a revenue sharing  
10 arrangement.

11          (5) "Functional impairment" means both of the following:

12           (a) With regard to serious emotional disturbance, substantial  
13 interference with or limitation of a minor's achievement or  
14 maintenance of 1 or more developmentally appropriate social,  
15 behavioral, cognitive, communicative, or adaptive skills.

16           (b) With regard to serious mental illness, substantial  
17 interference or limitation of role functioning in 1 or more major  
18 life activities including basic living skills such as eating,  
19 bathing, and dressing; instrumental living skills such as  
20 maintaining a household, managing money, getting around the  
21 community, and taking prescribed medication; and functioning in  
22 social, vocational, and educational contexts.

23          (6) "Guardian" means a person appointed by the court to  
24 exercise specific powers over an individual who is a minor, legally  
25 incapacitated, or developmentally disabled.

26          (7) "Hospital" or "psychiatric hospital" means an inpatient  
27 program operated by the department for the treatment of individuals

1 with serious mental illness or serious emotional disturbance or a  
2 psychiatric hospital or psychiatric unit licensed under section  
3 137.

4 (8) "Hospital director" means the chief administrative officer  
5 of a hospital or his or her designee.

6 (9) "Hospitalization" or "hospitalize" means to provide  
7 treatment for an individual as an inpatient in a hospital.

8 (10) "Incapacitated" means that an individual, as a result of  
9 the use of alcohol, is unconscious or has his or her mental or  
10 physical functioning so impaired that he or she either poses an  
11 immediate and substantial danger to his or her own health and  
12 safety or is endangering the health and safety of the public.

13 (11) "Individual plan of services" or "plan of services" means  
14 a written individual plan of services developed with a recipient as  
15 required by section 712.

16 (12) **"INTELLECTUAL DISABILITY" MEANS A CONDITION MANIFESTING**  
17 **BEFORE THE AGE OF 18 YEARS THAT IS CHARACTERIZED BY SIGNIFICANTLY**  
18 **SUBAVERAGE INTELLECTUAL FUNCTIONING AND RELATED LIMITATIONS IN 2 OR**  
19 **MORE ADAPTIVE SKILLS AND THAT IS DIAGNOSED BASED ON THE FOLLOWING**  
20 **ASSUMPTIONS:**

21 (A) **VALID ASSESSMENT CONSIDERS CULTURAL AND LINGUISTIC**  
22 **DIVERSITY, AS WELL AS DIFFERENCES IN COMMUNICATION AND BEHAVIORAL**  
23 **FACTORS.**

24 (B) **THE EXISTENCE OF LIMITATION IN ADAPTIVE SKILLS OCCURS**  
25 **WITHIN THE CONTEXT OF COMMUNITY ENVIRONMENTS TYPICAL OF THE**  
26 **INDIVIDUAL'S AGE PEERS AND IS INDEXED TO THE INDIVIDUAL'S**  
27 **PARTICULAR NEEDS FOR SUPPORT.**

1 (C) SPECIFIC ADAPTIVE SKILL LIMITATIONS OFTEN COEXIST WITH  
2 STRENGTHS IN OTHER ADAPTIVE SKILLS OR OTHER PERSONAL CAPABILITIES.

3 (D) WITH APPROPRIATE SUPPORTS OVER A SUSTAINED PERIOD, THE  
4 LIFE FUNCTIONING OF THE INDIVIDUAL WITH AN INTELLECTUAL DISABILITY  
5 WILL GENERALLY IMPROVE.

6 (13) ~~(12)~~—"Licensed facility" means a facility licensed by the  
7 department under section 137 or an adult foster care facility.

8 (14) ~~(13)~~—"Licensed psychologist" means a doctoral level  
9 psychologist licensed under section 18223(1) of the public health  
10 code, 1978 PA 368, MCL 333.18223.

11 (15) ~~(14)~~—"Medical director" means a psychiatrist appointed  
12 under section 231 to advise the executive director of a community  
13 mental health services program.

14 (16) ~~(15)~~—"Mental health professional" means an individual who  
15 is trained and experienced in the area of mental illness or  
16 developmental disabilities and who is 1 of the following:

17 (a) A physician.

18 (b) A psychologist. ~~licensed to practice in this state under~~  
19 ~~article 15 of the public health code, 1978 PA 368, MCL 333.16101 to~~  
20 ~~333.18838.~~

21 (c) A registered professional nurse licensed **OR OTHERWISE**  
22 **AUTHORIZED** to **ENGAGE IN THE** practice ~~in this state~~ **OF NURSING** under  
23 ~~article 15~~ **PART 172** of the public health code, 1978 PA 368, MCL  
24 ~~333.16101 to 333.18838.~~ **333.17201 TO 333.17242.**

25 (d) A licensed master's social worker licensed **OR OTHERWISE**  
26 **AUTHORIZED TO ENGAGE IN THE PRACTICE OF SOCIAL WORK AT THE MASTER'S**  
27 **LEVEL** under ~~article 15~~ **PART 185** of the public health code, 1978 PA

1 368, MCL ~~333.16101 to 333.18838~~. **333.18501 TO 333.18518.**

2 (e) A licensed professional counselor licensed **OR OTHERWISE**  
3 **AUTHORIZED to ENGAGE IN THE** practice ~~in this state~~ **OF COUNSELING**  
4 under ~~article 15~~ **PART 181** of the public health code, 1978 PA 368,  
5 MCL ~~333.16101 to 333.18838~~. **333.18101 TO 333.18117.**

6 (f) A marriage and family therapist licensed **OR OTHERWISE**  
7 **AUTHORIZED TO ENGAGE IN THE PRACTICE OF MARRIAGE AND FAMILY THERAPY**  
8 under ~~article 15~~ **PART 169** of the public health code, 1978 PA 368,  
9 MCL ~~333.16101 to 333.18838~~. **333.16901 TO 333.16915.**

10 ~~—— (16) "Mental retardation" means a condition manifesting before~~  
11 ~~the age of 18 years that is characterized by significantly~~  
12 ~~subaverage intellectual functioning and related limitations in 2 or~~  
13 ~~more adaptive skills and that is diagnosed based on the following~~  
14 ~~assumptions:~~

15 ~~—— (a) Valid assessment considers cultural and linguistic~~  
16 ~~diversity, as well as differences in communication and behavioral~~  
17 ~~factors.~~

18 ~~—— (b) The existence of limitation in adaptive skills occurs~~  
19 ~~within the context of community environments typical of the~~  
20 ~~individual's age peers and is indexed to the individual's~~  
21 ~~particular needs for support.~~

22 ~~—— (c) Specific adaptive skill limitations often coexist with~~  
23 ~~strengths in other adaptive skills or other personal capabilities.~~

24 ~~—— (d) With appropriate supports over a sustained period, the~~  
25 ~~life functioning of the individual with mental retardation will~~  
26 ~~generally improve.~~

27 (17) "Minor" means an individual under the age of 18 years.

1 (18) "Multicultural services" means specialized mental health  
2 services for multicultural populations such as African-Americans,  
3 Hispanics, Native Americans, Asian and Pacific Islanders, and  
4 Arab/Chaldean-Americans.

5 (19) "Neglect" means an act or failure to act committed by an  
6 employee or volunteer of the department, a community mental health  
7 services program, or a licensed hospital; a service provider under  
8 contract with the department, a community mental health services  
9 program, or a licensed hospital; or an employee or volunteer of a  
10 service provider under contract with the department, a community  
11 mental health services program, or a licensed hospital, that denies  
12 a recipient the standard of care or treatment to which he or she is  
13 entitled under this act.

14 Sec. 134a. (1) Except as otherwise provided in subsection (2),  
15 a psychiatric facility or ~~intermediate care facility for people~~  
16 ~~with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**  
17 shall not employ, independently contract with, or grant clinical  
18 privileges to an individual who regularly has direct access to or  
19 provides direct services to patients or residents in the  
20 psychiatric facility or ~~intermediate care facility for people with~~  
21 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** if the  
22 individual satisfies 1 or more of the following:

23 (a) Has been convicted of a relevant crime described under 42  
24 USC 1320a-7(a).

25 (b) Has been convicted of any of the following felonies, an  
26 attempt or conspiracy to commit any of those felonies, or any other  
27 state or federal crime that is similar to the felonies described in

1 this subdivision, other than a felony for a relevant crime  
2 described under 42 USC 1320a-7(a), unless 15 years have lapsed  
3 since the individual completed all of the terms and conditions of  
4 his or her sentencing, parole, and probation for that conviction  
5 prior to the date of application for employment or clinical  
6 privileges or the date of the execution of the independent  
7 contract:

8 (i) A felony that involves the intent to cause death or serious  
9 impairment of a body function, that results in death or serious  
10 impairment of a body function, that involves the use of force or  
11 violence, or that involves the threat of the use of force or  
12 violence.

13 (ii) A felony involving cruelty or torture.

14 (iii) A felony under chapter XXA of the Michigan penal code,  
15 1931 PA 328, MCL 750.145m to 750.145r.

16 (iv) A felony involving criminal sexual conduct.

17 (v) A felony involving abuse or neglect.

18 (vi) A felony involving the use of a firearm or dangerous  
19 weapon.

20 (vii) A felony involving the diversion or adulteration of a  
21 prescription drug or other medications.

22 (c) Has been convicted of a felony or an attempt or conspiracy  
23 to commit a felony, other than a felony for a relevant crime  
24 described under 42 USC 1320a-7(a) or a felony described under  
25 subdivision (b), unless 10 years have lapsed since the individual  
26 completed all of the terms and conditions of his or her sentencing,  
27 parole, and probation for that conviction prior to the date of

1 application for employment or clinical privileges or the date of  
2 the execution of the independent contract.

3 (d) Has been convicted of any of the following misdemeanors,  
4 other than a misdemeanor for a relevant crime described under 42  
5 USC 1320a-7(a), or a state or federal crime that is substantially  
6 similar to the misdemeanors described in this subdivision, within  
7 the 10 years immediately preceding the date of application for  
8 employment or clinical privileges or the date of the execution of  
9 the independent contract:

10 (i) A misdemeanor involving the use of a firearm or dangerous  
11 weapon with the intent to injure, the use of a firearm or dangerous  
12 weapon that results in a personal injury, or a misdemeanor  
13 involving the use of force or violence or the threat of the use of  
14 force or violence.

15 (ii) A misdemeanor under chapter XXA of the Michigan penal  
16 code, 1931 PA 328, MCL 750.145m to 750.145r.

17 (iii) A misdemeanor involving criminal sexual conduct.

18 (iv) A misdemeanor involving cruelty or torture unless  
19 otherwise provided under subdivision (e).

20 (v) A misdemeanor involving abuse or neglect.

21 (e) Has been convicted of any of the following misdemeanors,  
22 other than a misdemeanor for a relevant crime described under 42  
23 USC 1320a-7(a), or a state or federal crime that is substantially  
24 similar to the misdemeanors described in this subdivision, within  
25 the 5 years immediately preceding the date of application for  
26 employment or clinical privileges or the date of the execution of  
27 the independent contract:



1           (i) A misdemeanor involving cruelty if committed by an  
2 individual who is less than 16 years of age.

3           (ii) A misdemeanor involving home invasion.

4           (iii) A misdemeanor involving embezzlement.

5           (iv) A misdemeanor involving negligent homicide or a violation  
6 of section 601d(1) of the Michigan vehicle code, 1940 PA 300, MCL  
7 257.601d.

8           (v) A misdemeanor involving larceny unless otherwise provided  
9 under subdivision (g).

10          (vi) A misdemeanor of retail fraud in the second degree unless  
11 otherwise provided under subdivision (g).

12          (vii) Any other misdemeanor involving assault, fraud, theft, or  
13 the possession or delivery of a controlled substance unless  
14 otherwise provided under subdivision (d), (f), or (g).

15          (f) Has been convicted of any of the following misdemeanors,  
16 other than a misdemeanor for a relevant crime described under 42  
17 USC 1320a-7(a), or a state or federal crime that is substantially  
18 similar to the misdemeanors described in this subdivision, within  
19 the 3 years immediately preceding the date of application for  
20 employment or clinical privileges or the date of the execution of  
21 the independent contract:

22           (i) A misdemeanor for assault if there was no use of a firearm  
23 or dangerous weapon and no intent to commit murder or inflict great  
24 bodily injury.

25           (ii) A misdemeanor of retail fraud in the third degree unless  
26 otherwise provided under subdivision (g).

27           (iii) A misdemeanor under part 74 of the public health code,

1 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided  
2 under subdivision (g).

3 (g) Has been convicted of any of the following misdemeanors,  
4 other than a misdemeanor for a relevant crime described under 42  
5 USC 1320a-7(a), or a state or federal crime that is substantially  
6 similar to the misdemeanors described in this subdivision, within  
7 the year immediately preceding the date of application for  
8 employment or clinical privileges or the date of the execution of  
9 the independent contract:

10 (i) A misdemeanor under part 74 of the public health code, 1978  
11 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of  
12 conviction, is under the age of 18.

13 (ii) A misdemeanor for larceny or retail fraud in the second or  
14 third degree if the individual, at the time of conviction, is under  
15 the age of 16.

16 (h) Is the subject of an order or disposition under section  
17 16b of chapter IX of the code of criminal procedure, 1927 PA 175,  
18 MCL 769.16b.

19 (i) Engages in conduct that becomes the subject of a  
20 substantiated finding of neglect, abuse, or misappropriation of  
21 property by a state or federal agency according to an investigation  
22 conducted in accordance with 42 USC 1395i-3 or 1396r.

23 (2) Except as otherwise provided in this subsection or  
24 subsection (5), a psychiatric facility or ~~intermediate care~~  
25 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**  
26 **IN 42 USC 1396D(D)** shall not employ, independently contract with,  
27 or grant privileges to an individual who regularly has direct

1 access to or provides direct services to patients or residents in  
2 the psychiatric facility or ~~intermediate care facility for people~~  
3 ~~with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**  
4 until the psychiatric facility or ~~intermediate care facility for~~  
5 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
6 **1396D(D)** or staffing agency has conducted a criminal history check  
7 in compliance with this section or received criminal history record  
8 information in compliance with subsection (3) or (10). This  
9 subsection and subsection (1) do not apply to any of the following:

10 (a) An individual who is employed by, under independent  
11 contract to, or granted clinical privileges in a psychiatric  
12 facility or ~~intermediate care facility for people with mental~~  
13 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** before April  
14 1, 2006. On or before April 1, 2011, an individual who is exempt  
15 under this subdivision and who has not been the subject of a  
16 criminal history check conducted in compliance with this section  
17 shall provide the department of state police with a set of  
18 fingerprints and the department of state police shall input those  
19 fingerprints into the automated fingerprint identification system  
20 database established under subsection (13). An individual who is  
21 exempt under this subdivision is not limited to working within the  
22 psychiatric facility or ~~intermediate care facility for people with~~  
23 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** with  
24 which he or she is employed by, under independent contract to, or  
25 granted clinical privileges on April 1, 2006 but may transfer to  
26 another psychiatric facility or ~~intermediate care facility for~~  
27 ~~people with mental retardation~~, **OTHER FACILITY DEFINED IN 42 USC**

1 1396D(D), covered health facility, or adult foster care facility.  
2 If an individual who is exempt under this subdivision is  
3 subsequently convicted of a crime described under subsection (1)(a)  
4 through (g) or found to be the subject of a substantiated finding  
5 described under subsection (1)(i) or an order or disposition  
6 described under subsection (1)(h), or is found to have been  
7 convicted of a relevant crime described under subsection (1)(a),  
8 then he or she is no longer exempt and shall be terminated from  
9 employment or denied employment or clinical privileges.

10 (b) An individual who is under an independent contract with a  
11 psychiatric facility or ~~intermediate care facility for people with~~  
12 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** if he  
13 or she is not under the facility's control and the services for  
14 which he or she is contracted is not directly related to the  
15 provision of services to a patient or resident or if the services  
16 for which he or she is contracted allows for direct access to the  
17 patients or residents but is not performed on an ongoing basis.  
18 This exception includes, but is not limited to, an individual who  
19 is under an independent contract with the psychiatric facility or  
20 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
21 **FACILITY DEFINED IN 42 USC 1396D(D)** to provide utility,  
22 maintenance, construction, or communications services.

23 (3) An individual who applies for employment either as an  
24 employee or as an independent contractor or for clinical privileges  
25 with a psychiatric facility or ~~intermediate care facility for~~  
26 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
27 **1396D(D)** or a staffing agency and who has not been the subject of a

1 criminal history check conducted in compliance with this section  
2 shall give written consent at the time of application for the  
3 department of state police to conduct a criminal history check  
4 under this section, along with identification acceptable to the  
5 department of state police. If the applicant has been the subject  
6 of a criminal history check conducted in compliance with this  
7 section, the applicant shall give written consent at the time of  
8 application for the psychiatric facility or ~~intermediate care~~  
9 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**  
10 **IN 42 USC 1396D(D)** or staffing agency to obtain the criminal  
11 history record information as prescribed in subsection (4) from the  
12 relevant licensing or regulatory department and for the department  
13 of state police to conduct a criminal history check under this  
14 section if the requirements of subsection (10) are not met and a  
15 request to the federal bureau of investigation to make a  
16 determination of the existence of any national criminal history  
17 pertaining to the applicant is necessary, along with identification  
18 acceptable to the department of state police. Upon receipt of the  
19 written consent to obtain the criminal history record information  
20 and identification required under this subsection, the psychiatric  
21 facility or ~~intermediate care facility for people with mental~~  
22 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or staffing  
23 agency that has made a good-faith offer of employment or an  
24 independent contract or clinical privileges to the applicant shall  
25 request the criminal history record information from the relevant  
26 licensing or regulatory department and shall make a request  
27 regarding that applicant to the relevant licensing or regulatory

1 department to conduct a check of all relevant registries in the  
2 manner required in subsection (4). If the requirements of  
3 subsection (10) are not met and a request to the federal bureau of  
4 investigation to make a subsequent determination of the existence  
5 of any national criminal history pertaining to the applicant is  
6 necessary, the psychiatric facility or ~~intermediate care facility~~  
7 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
8 **1396D(D)** or staffing agency shall proceed in the manner required in  
9 subsection (4). A staffing agency that employs an applicant who  
10 regularly has direct access to or provides direct services to  
11 patients or residents under an independent contract with a  
12 psychiatric facility or ~~intermediate care facility for people with~~  
13 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** shall  
14 submit information regarding the criminal history check conducted  
15 by the staffing agency to the psychiatric facility or ~~intermediate~~  
16 ~~care facility for people with mental retardation~~ **OTHER FACILITY**  
17 **DEFINED IN 42 USC 1396D(D)** that has made a good-faith offer of  
18 independent contract to that applicant.

19 (4) Upon receipt of the written consent to conduct a criminal  
20 history check and identification required under subsection (3), a  
21 psychiatric facility or ~~intermediate care facility for people with~~  
22 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or  
23 staffing agency that has made a good-faith offer of employment or  
24 an independent contract or clinical privileges to the applicant  
25 shall make a request to the department of state police to conduct a  
26 criminal history check on the applicant, to input the applicant's  
27 fingerprints into the automated fingerprint identification system

1 database, and to forward the applicant's fingerprints to the  
2 federal bureau of investigation. The department of state police  
3 shall request the federal bureau of investigation to make a  
4 determination of the existence of any national criminal history  
5 pertaining to the applicant. The applicant shall provide the  
6 department of state police with a set of fingerprints. The request  
7 shall be made in a manner prescribed by the department of state  
8 police. The psychiatric facility or ~~intermediate care facility for~~  
9 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
10 **1396D(D)** or staffing agency shall make the written consent and  
11 identification available to the department of state police. The  
12 psychiatric facility or ~~intermediate care facility for people with~~  
13 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or  
14 staffing agency shall make a request regarding that applicant to  
15 the relevant licensing or regulatory department to conduct a check  
16 of all relevant registries established under federal and state law  
17 and regulations for any substantiated findings of abuse, neglect,  
18 or misappropriation of property. If the department of state police  
19 or the federal bureau of investigation charges a fee for conducting  
20 the criminal history check, the psychiatric facility or  
21 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
22 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency shall pay  
23 the cost of the charge. The psychiatric facility or ~~intermediate~~  
24 ~~care facility for people with mental retardation~~ **OTHER FACILITY**  
25 **DEFINED IN 42 USC 1396D(D)** or staffing agency shall not seek  
26 reimbursement for a charge imposed by the department of state  
27 police or the federal bureau of investigation from the individual

1 who is the subject of the criminal history check. A prospective  
2 employee or a prospective independent contractor covered under this  
3 section may not be charged for the cost of a criminal history check  
4 required under this section. The department of state police shall  
5 conduct a criminal history check on the applicant named in the  
6 request. The department of state police shall provide the  
7 department with a written report of the criminal history check  
8 conducted under this subsection. The report shall contain any  
9 criminal history record information on the applicant maintained by  
10 the department of state police. The department of state police  
11 shall provide the results of the federal bureau of investigation  
12 determination to the department within 30 days after the request is  
13 made. If the requesting psychiatric facility or ~~intermediate care~~  
14 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**  
15 **IN 42 USC 1396D(D)** or staffing agency is not a state department or  
16 agency and if criminal history record information is disclosed on  
17 the written report of the criminal history check or the federal  
18 bureau of investigation determination that resulted in a  
19 conviction, the department shall notify the psychiatric facility or  
20 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
21 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency and the  
22 applicant in writing of the type of crime disclosed on the written  
23 report of the criminal history check or the federal bureau of  
24 investigation determination without disclosing the details of the  
25 crime. Any charges imposed by the department of state police or the  
26 federal bureau of investigation for conducting a criminal history  
27 check or making a determination under this subsection shall be paid



1 in the manner required under this subsection. The notice shall  
2 include a statement that the applicant has a right to appeal the  
3 information relied upon by the psychiatric facility or ~~intermediate~~  
4 ~~care facility for people with mental retardation~~ **OTHER FACILITY**  
5 **DEFINED IN 42 USC 1396D(D)** or staffing agency regarding his or her  
6 employment eligibility based on the criminal history check. The  
7 notice shall also include information regarding where to file and  
8 describing the appellate procedures established under section  
9 20173b of the public health code, 1978 PA 368, MCL 333.20173b.

10 (5) If a psychiatric facility or ~~intermediate care facility~~  
11 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
12 **1396D(D)** determines it necessary to employ or grant clinical  
13 privileges to an applicant before receiving the results of the  
14 applicant's criminal history check or criminal history record  
15 information under this section, the psychiatric facility or  
16 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
17 **FACILITY DEFINED IN 42 USC 1396D(D)** may conditionally employ or  
18 grant conditional clinical privileges to the individual if all of  
19 the following apply:

20 (a) The psychiatric facility or ~~intermediate care facility for~~  
21 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
22 **1396D(D)** requests the criminal history check or criminal history  
23 record information under this section upon conditionally employing  
24 or conditionally granting clinical privileges to the individual.

25 (b) The individual signs a statement in writing that indicates  
26 all of the following:

27 (i) That he or she has not been convicted of 1 or more of the

1 crimes that are described in subsection (1)(a) through (g) within  
2 the applicable time period prescribed by each subdivision  
3 respectively.

4 (ii) That he or she is not the subject of an order or  
5 disposition described in subsection (1)(h).

6 (iii) That he or she has not been the subject of a substantiated  
7 finding as described in subsection (1)(i).

8 (iv) The individual agrees that, if the information in the  
9 criminal history check conducted under this section does not  
10 confirm the individual's statements under subparagraphs (i) through  
11 (iii), his or her employment or clinical privileges will be  
12 terminated by the psychiatric facility or ~~intermediate care~~  
13 ~~facility for people with mental retardation~~ **OTHER FACILITY DEFINED**  
14 **IN 42 USC 1396D(D)** as required under subsection (1) unless and  
15 until the individual appeals and can prove that the information is  
16 incorrect.

17 (v) That he or she understands the conditions described in  
18 subparagraphs (i) through (iv) that result in the termination of his  
19 or her employment or clinical privileges and that those conditions  
20 are good cause for termination.

21 (c) Except as otherwise provided in this subdivision, the  
22 psychiatric facility or ~~intermediate care facility for people with~~  
23 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** does  
24 not permit the individual to have regular direct access to or  
25 provide direct services to patients or residents in the psychiatric  
26 facility or ~~intermediate care facility for people with mental~~  
27 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** without

1 supervision until the criminal history check or criminal history  
2 record information is obtained and the individual is eligible for  
3 that employment or clinical privileges. If required under this  
4 subdivision, the psychiatric facility or ~~intermediate care facility~~  
5 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
6 **1396D(D)** shall provide on-site supervision of an individual in the  
7 facility on a conditional basis under this subsection by an  
8 individual who has undergone a criminal history check conducted in  
9 compliance with this section. A psychiatric facility or  
10 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
11 **FACILITY DEFINED IN 42 USC 1396D(D)** may permit an individual in the  
12 facility on a conditional basis under this subsection to have  
13 regular direct access to or provide direct services to patients or  
14 residents in the psychiatric facility or ~~intermediate care facility~~  
15 ~~for people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
16 **1396D(D)** without supervision if all of the following conditions are  
17 met:

18 (i) The psychiatric facility or ~~intermediate care facility for~~  
19 ~~people with mental retardation,~~ **OTHER FACILITY DEFINED IN 42 USC**  
20 **1396D(D)**, at its own expense and before the individual has direct  
21 access to or provides direct services to patients or residents of  
22 the psychiatric facility or ~~intermediate care facility for people~~  
23 ~~with mental retardation,~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**,  
24 conducts a search of public records on that individual through the  
25 internet criminal history access tool maintained by the department  
26 of state police and the results of that search do not uncover any  
27 information that would indicate that the individual is not eligible

1 to have regular direct access to or provide direct services to  
2 patients or residents under this section.

3 (ii) Before the individual has direct access to or provides  
4 direct services to patients or residents of the psychiatric  
5 facility or ~~intermediate care facility for people with mental~~  
6 ~~retardation~~, **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**, the  
7 individual signs a statement in writing that he or she has resided  
8 in this state without interruption for at least the immediately  
9 preceding 12-month period.

10 (iii) If applicable, the individual provides to the department  
11 of state police a set of fingerprints on or before the expiration  
12 of 10 business days following the date the individual was  
13 conditionally employed or granted conditional clinical privileges  
14 under this subsection.

15 (6) The department shall develop and distribute a model form  
16 for the statements required under subsection (5) (b) and (c). The  
17 department shall make the model form available to psychiatric  
18 facilities or ~~intermediate care facilities for people with mental~~  
19 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** subject to  
20 this section upon request at no charge.

21 (7) If an individual is employed as a conditional employee or  
22 is granted conditional clinical privileges under subsection (5),  
23 and the information under subsection (3) or report under subsection  
24 (4) does not confirm the individual's statement under subsection  
25 (5) (b) (i) through (iii), the psychiatric facility or ~~intermediate~~  
26 ~~care facility for people with mental retardation~~ **OTHER FACILITY**  
27 **DEFINED IN 42 USC 1396D(D)** shall terminate the individual's

1 employment or clinical privileges as required by subsection (1).

2 (8) An individual who knowingly provides false information  
3 regarding his or her identity, criminal convictions, or  
4 substantiated findings on a statement described in subsection  
5 (5)(b)(i) through (iii) is guilty of a misdemeanor punishable by  
6 imprisonment for not more than 93 days or a fine of not more than  
7 \$500.00, or both.

8 (9) A psychiatric facility or ~~intermediate care facility for~~  
9 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
10 **1396D(D)** or staffing agency shall use criminal history record  
11 information obtained under subsection (3) or (4) only for the  
12 purpose of evaluating an applicant's qualifications for employment,  
13 an independent contract, or clinical privileges in the position for  
14 which he or she has applied and for the purposes of subsections (5)  
15 and (7). A psychiatric facility or ~~intermediate care facility for~~  
16 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
17 **1396D(D)** or staffing agency or an employee of the psychiatric  
18 facility or ~~intermediate care facility for people with mental~~  
19 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or staffing  
20 agency shall not disclose criminal history record information  
21 obtained under subsection (3) or (4) to a person who is not  
22 directly involved in evaluating the applicant's qualifications for  
23 employment, an independent contract, or clinical privileges. An  
24 individual who knowingly uses or disseminates the criminal history  
25 record information obtained under subsection (3) or (4) in  
26 violation of this subsection is guilty of a misdemeanor punishable  
27 by imprisonment for not more than 93 days or a fine of not more

1 than \$1,000.00, or both. Except for a knowing or intentional  
2 release of false information, a psychiatric facility or  
3 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
4 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency has no  
5 liability in connection with a criminal history check conducted in  
6 compliance with this section or the release of criminal history  
7 record information under this subsection.

8 (10) Upon consent of an applicant as required in subsection  
9 (3) and upon request from a psychiatric facility or ~~intermediate~~  
10 ~~care facility for people with mental retardation~~ **OTHER FACILITY**  
11 **DEFINED IN 42 USC 1396D(D)** or staffing agency that has made a good-  
12 faith offer of employment or an independent contract or clinical  
13 privileges to the applicant, the relevant licensing or regulatory  
14 department shall review the criminal history record information, if  
15 any, and notify the requesting psychiatric facility or ~~intermediate~~  
16 ~~care facility for people with mental retardation~~ **OTHER FACILITY**  
17 **DEFINED IN 42 USC 1396D(D)** or staffing agency of the information in  
18 the manner prescribed in subsection (4). Until the federal bureau  
19 of investigation implements an automatic notification system  
20 similar to the system required of the state police under subsection  
21 (13) and federal regulations allow the federal criminal record to  
22 be used for subsequent authorized uses, as determined in an order  
23 issued by the department, a covered health or staffing agency  
24 facility may rely on the criminal history record information  
25 provided by the relevant licensing or regulatory department under  
26 this subsection and a request to the federal bureau of  
27 investigation to make a subsequent determination of the existence

1 of any national criminal history pertaining to the applicant is not  
2 necessary if all of the following requirements are met:

3 (a) The criminal history check was conducted during the  
4 immediately preceding 12-month period.

5 (b) The applicant has been continuously employed by a  
6 psychiatric facility or ~~intermediate care facility for people with~~  
7 ~~mental retardation,~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**,  
8 covered health facility, or adult foster care facility or the  
9 staffing agency since the criminal history check was conducted in  
10 compliance with this section or meets the continuous employment  
11 requirement of this subdivision other than being on layoff status  
12 for less than 1 year from a psychiatric facility or ~~intermediate~~  
13 ~~care facility for people with mental retardation,~~ **OTHER FACILITY**  
14 **DEFINED IN 42 USC 1396D(D)**, covered health facility, or adult  
15 foster care facility.

16 (c) The applicant can provide evidence acceptable to the  
17 relevant licensing or regulatory department that he or she has been  
18 a resident of this state for the immediately preceding 12-month  
19 period.

20 (11) As a condition of continued employment, each employee,  
21 independent contractor, or individual granted clinical privileges  
22 shall do each of the following:

23 (a) Agree in writing to report to the psychiatric facility or  
24 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
25 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency immediately  
26 upon being arraigned for 1 or more of the criminal offenses listed  
27 in subsection (1)(a) through (g), upon being convicted of 1 or more

1 of the criminal offenses listed in subsection (1)(a) through (g),  
2 upon becoming the subject of an order or disposition described  
3 under subsection (1)(h), and upon being the subject of a  
4 substantiated finding of neglect, abuse, or misappropriation of  
5 property as described in subsection (1)(i). Reporting of an  
6 arraignment under this subdivision is not cause for termination or  
7 denial of employment.

8 (b) If a set of fingerprints is not already on file with the  
9 department of state police, provide the department of state police  
10 with a set of fingerprints.

11 (12) In addition to sanctions set forth in this act, a  
12 licensee, owner, administrator, or operator of a psychiatric  
13 facility or ~~intermediate care facility for people with mental~~  
14 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** or staffing  
15 agency who knowingly and willfully fails to conduct the criminal  
16 history checks as required under this section is guilty of a  
17 misdemeanor punishable by imprisonment for not more than 1 year or  
18 a fine of not more than \$5,000.00, or both.

19 (13) In collaboration with the department of state police, the  
20 department of technology, management, and budget shall establish  
21 and maintain an automated fingerprint identification system  
22 database that would allow the department of state police to store  
23 and maintain all fingerprints submitted under this section and  
24 would provide for an automatic notification if and when a  
25 subsequent criminal arrest fingerprint card submitted into the  
26 system matches a set of fingerprints previously submitted under  
27 this section. Upon ~~such~~ notification, the department of state



1 police shall immediately notify the department and the department  
2 shall immediately contact each respective psychiatric facility or  
3 ~~intermediate care facility for people with mental retardation~~ **OTHER**  
4 **FACILITY DEFINED IN 42 USC 1396D(D)** or staffing agency with which  
5 that individual is associated. Information in the database  
6 established under this subsection is confidential, is not subject  
7 to disclosure under the freedom of information act, 1976 PA 442,  
8 MCL 15.231 to 15.246, and shall not be disclosed to any person  
9 except for purposes of this act or for law enforcement purposes.

10 (14) The department shall maintain an electronic web-based  
11 system to assist psychiatric facilities or ~~intermediate care~~  
12 ~~facilities for people with mental retardation~~ **OTHER FACILITY**  
13 **DEFINED IN 42 USC 1396D(D)** and staffing agencies required to check  
14 relevant registries and conduct criminal history checks of its  
15 employees and independent contractors, and individuals granted  
16 privileges and to provide for an automated notice to those  
17 psychiatric facilities or ~~intermediate care facilities for people~~  
18 ~~with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**  
19 and staffing agencies for those individuals inputted in the system  
20 who, since the initial criminal history check, have been convicted  
21 of a disqualifying offense or have been the subject of a  
22 substantiated finding of abuse, neglect, or misappropriation of  
23 property. The department may charge a staffing agency a 1-time set-  
24 up fee of up to \$100.00 for access to the electronic web-based  
25 system under this section.

26 (15) As used in this section:

27 (a) "Adult foster care facility" means an adult foster care

1 facility licensed under the adult foster care facility licensing  
2 act, 1979 PA 218, MCL 400.701 to 400.737.

3 (b) "Convicted" means either of the following:

4 (i) For a crime that is not a relevant crime, a final  
5 conviction, the payment of a fine, a plea of guilty or nolo  
6 contendere if accepted by the court, or a finding of guilt for a  
7 criminal law violation or a juvenile adjudication or disposition by  
8 the juvenile division of probate court or family division of  
9 circuit court for a violation that if committed by an adult would  
10 be a crime.

11 (ii) For a relevant crime described under 42 USC 1320a-7(a),  
12 convicted means that term as defined in 42 USC 1320a-7.

13 (c) "Covered health facility" means a nursing home, county  
14 medical care facility, hospice, hospital that provides swing bed  
15 services, or home for the aged licensed under article 17 of the  
16 public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or  
17 home health agency.

18 (d) "Criminal history check conducted in compliance with this  
19 section" includes a criminal history check conducted under this  
20 section, under section 20173a of the public health code, 1978 PA  
21 3658, MCL 333.20173a, or under section 34b of the adult foster care  
22 facility licensing act, 1979 PA 218, MCL 400.734b.

23 (e) "Direct access" means access to a patient or resident or  
24 to a patient's or resident's property, financial information,  
25 medical records, treatment information, or any other identifying  
26 information.

27 (f) "Home health agency" means a person certified by medicare

1 whose business is to provide to individuals in their places of  
 2 residence other than in a hospital, nursing home, or county medical  
 3 care facility 1 or more of the following services: nursing  
 4 services, therapeutic services, social work services, homemaker  
 5 services, home health aide services, or other related services.

6 (g) "Independent contract" means a contract entered into by a  
 7 health facility or agency with an individual who provides the  
 8 contracted services independently or a contract entered into by a  
 9 health facility or agency with a staffing agency that complies with  
 10 the requirements of this section to provide the contracted services  
 11 to the psychiatric facility or ~~intermediate care facility for~~  
 12 ~~people with mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC**  
 13 **1396D(D)** on behalf of the staffing agency.

14 (h) "Medicare" means benefits under the federal medicare  
 15 program established under title XVIII of the social security act,  
 16 42 USC 1395 to ~~1395iii~~ **1395KKK-1**.

17 (i) "Staffing agency" means an entity that recruits candidates  
 18 and provides temporary and permanent qualified staffing for  
 19 psychiatric facilities or ~~intermediate care facilities for people~~  
 20 ~~with mental retardation~~, **OTHER FACILITY DEFINED IN 42 USC 1396D(D)**,  
 21 including independent contractors.

22 (j) "Under the facility's control" means an individual  
 23 employed by or under independent contract with a psychiatric  
 24 facility or ~~intermediate care facility for people with mental~~  
 25 ~~retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** for whom the  
 26 psychiatric facility or ~~intermediate care facility for people with~~  
 27 ~~mental retardation~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D)** does

1 both of the following:

2 (i) Determines whether the individual who has access to  
3 patients or residents may provide care, treatment, or other similar  
4 support service functions to patients or residents served by the  
5 psychiatric facility or ~~intermediate care facility for people with~~  
6 ~~mental retardation.~~ **OTHER FACILITY DEFINED IN 42 USC 1396D(D).**

7 (ii) Directs or oversees 1 or more of the following:

8 (A) The policy or procedures the individual must follow in  
9 performing his or her duties.

10 (B) The tasks performed by the individual.

11 (C) The individual's work schedule.

12 (D) The supervision or evaluation of the individual's work or  
13 job performance, including imposing discipline or granting  
14 performance awards.

15 (E) The compensation the individual receives for performing  
16 his or her duties.

17 (F) The conditions under which the individual performs his or  
18 her duties.

19 Sec. 504. An individual with a developmental disability other  
20 than ~~mental retardation.~~ **AN INTELLECTUAL DISABILITY** is eligible for  
21 temporary and administrative admission ~~pursuant to~~ **UNDER** sections  
22 508 and 509, but is not eligible for judicial admission.

23 Sec. 515. A court may order the admission of an individual 18  
24 years of age or older who meets both of the following requirements:

25 (a) Has been diagnosed as an individual with ~~mental~~  
26 ~~retardation.~~ **AN INTELLECTUAL DISABILITY.**

27 (b) Can be reasonably expected within the near future to

1 intentionally or unintentionally seriously physically injure  
2 himself or herself or another person, and has overtly acted in a  
3 manner substantially supportive of that expectation.

4       Sec. 932. The several counties of the state ~~of Michigan shall~~  
5 have power and authority, by resolution of the county board of  
6 commissioners, to provide for the care, custody, and maintenance of  
7 ~~mentally retarded and other~~ developmentally disabled persons within  
8 ~~such~~ **THE** counties and for this purpose counties may raise money by  
9 tax or by loan and issue bonds of the county to secure the  
10 repayment of ~~any such~~ **THE** loan in the manner and within the limits  
11 provided by law for the erection of buildings and for the purchase  
12 of equipment. Counties may raise by tax, in the manner and within  
13 the limits provided by law, ~~such~~ **THE** sum ~~or sums as may be needed~~  
14 from year to year, for the support, maintenance, and care of  
15 ~~mentally retarded and other~~ developmentally disabled persons  
16 admitted to the care of any facility maintained by ~~such~~ **THE**  
17 counties under and by authority of law.

18       Sec. 1001a. (1) "Center for forensic psychiatry program" means  
19 that program established by the center for forensic psychiatry to  
20 provide services related to all of the following:

21       (a) Persons who are alleged to be incompetent to stand trial.

22       (b) Persons who are acquitted of criminal charges by reason of  
23 insanity.

24       (c) Persons who are transferred to the center from places of  
25 detention or from other state psychiatric hospitals.

26       (2) "Corrections mental health program" means that program of  
27 the department of corrections that is responsible for the provision

1 of mental health services to certain prisoners under this chapter.

2 (3) "Hearing committee" means a committee appointed by the  
3 corrections mental health program ~~pursuant to~~ **UNDER** section 1003c.

4 (4) "Mental health services" means the provision of mental  
5 health care in a protective environment to prisoners with mental  
6 illness or ~~mental retardation~~, **DEVELOPMENTAL DISABILITY**, including,  
7 but not limited to, chemotherapy and individual and group  
8 therapies.

9 (5) "Mental illness" means a substantial disorder of thought  
10 or mood that significantly impairs judgment, behavior, capacity to  
11 recognize reality, or ability to cope with the ordinary demands of  
12 life.

13 ~~—— (6) "Mentally retarded" means significantly subaverage general~~  
14 ~~intellectual functioning that originates during the developmental~~  
15 ~~period and is associated with impairment in adaptive behavior.~~

16 Sec. 1003. The department of corrections shall establish and  
17 operate the corrections mental health program to provide mental  
18 health services for prisoners who are ~~mentally retarded~~  
19 **DEVELOPMENTALLY DISABLED** or mentally ill and need those services.  
20 The director of the department shall review the program's  
21 structure, content, quality standards, and implementation. The  
22 department of corrections may contract with the department or  
23 third-party providers to operate the corrections mental health  
24 program. The director of the department of corrections shall  
25 appoint the director of the corrections mental health program. The  
26 director of the corrections mental health program shall be an  
27 individual with an advanced degree in a mental health field and a

1 minimum of 5 years' experience in a mental health field.

2 Sec. 1003a. The following procedures apply to involuntary  
3 admission to the corrections mental health program:

4 (a) A person may file with the officer in charge of a state  
5 correctional facility a written notice alleging that a particular  
6 prisoner is mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY**  
7 **DISABLED** and requires treatment. Upon receipt of the written  
8 notice, the officer in charge of the facility shall contact the  
9 corrections mental health program, which shall initiate an  
10 evaluation by a mental health professional. If the officer in  
11 charge of a state correctional facility receives a report from a  
12 mental health professional that a prisoner may be mentally ill, the  
13 officer shall ensure that the prisoner is examined by a  
14 psychiatrist as soon as administratively possible. If the report  
15 from the mental health professional states that the prisoner may be  
16 ~~mentally retarded,~~ **DEVELOPMENTALLY DISABLED**, the officer shall  
17 ensure that the prisoner is examined by a psychologist as soon as  
18 administratively possible. Unless the prisoner can be examined  
19 within the facility where he or she is housed, the prisoner shall  
20 be transferred to an appropriate facility for examination.

21 (b) Upon completion of the examination described in  
22 subdivision (a), the psychiatrist or psychologist shall execute a  
23 certificate of findings that specifies whether, in the  
24 psychiatrist's or psychologist's opinion, the prisoner is mentally  
25 ill or ~~mentally retarded.~~ **DEVELOPMENTALLY DISABLED**. If a finding of  
26 mental illness or ~~mental retardation~~ **DEVELOPMENTAL DISABILITY** is  
27 made, the psychiatrist or psychologist shall recommend suitable

1 treatment available within the corrections mental health program.

2 (c) Upon completion of the examination described in  
3 subdivision (a), if the psychiatrist or psychologist determines  
4 that the prisoner is mentally ill or ~~mentally retarded~~  
5 **DEVELOPMENTALLY DISABLED** and is a present danger to himself or  
6 herself or to others, and if the prisoner refuses treatment, the  
7 psychiatrist may order involuntary administration of psychotropic  
8 medication pending a hearing ~~pursuant to~~ **UNDER** section 1003c.

9 (d) Upon completion of the certificate required under  
10 subdivision (b), the officer in charge of the state correctional  
11 facility shall provide to the prisoner and the guardian of the  
12 person, if applicable, a copy of the certificate, a copy of the  
13 psychiatrist's or psychologist's report of the examination, and a  
14 notice of hearing explaining hearing procedures and rights set  
15 forth in section 1003c. The documents shall be provided at least 24  
16 hours before the hearing.

17 (e) If the prisoner agrees with the treatment recommended  
18 under subdivision (b), the prisoner may execute a waiver of hearing  
19 and consent to treatment.

20 (f) If the prisoner refuses the treatment recommended under  
21 subdivision (b), a hearing shall be held ~~pursuant to~~ **UNDER** section  
22 1003c.

23 (g) The prisoner shall not be medicated for 24 hours before a  
24 hearing held under section 1003c.

25 (h) If, following a hearing held ~~pursuant to~~ **UNDER** section  
26 1003c, the hearing committee finds that the prisoner is not  
27 ~~mentally retarded or mentally ill~~ **OR DEVELOPMENTALLY DISABLED**, the



1 prisoner shall be placed according to normal procedures of the  
2 department of corrections. If the hearing committee finds that the  
3 prisoner is ~~mentally retarded or mentally ill~~ **OR DEVELOPMENTALLY**  
4 **DISABLED** and that the proposed services are suitable to the  
5 prisoner's condition, the corrections mental health program shall  
6 provide the mental health services designated by the hearing  
7 committee. If the hearing committee finds that the prisoner is  
8 mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** but that  
9 the proposed services are not suitable to the prisoner's condition,  
10 the corrections mental health program shall provide services that  
11 are available within the corrections mental health program that are  
12 suitable to the prisoner's condition as ordered by the hearing  
13 committee.

14       Sec. 1003b. The following procedures apply to voluntary  
15 admission to the corrections mental health program:

16       (a) If a prisoner desires to be voluntarily admitted to the  
17 corrections mental health program, the officer in charge of the  
18 state correctional facility in which the prisoner is housed shall  
19 transfer the prisoner, if necessary, to the appropriate location  
20 designated by the corrections mental health program for an  
21 examination by a psychiatrist or a psychologist, as applicable. If  
22 the examining psychiatrist or psychologist certifies to the  
23 corrections mental health program that the prisoner is mentally ill  
24 or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** and is clinically  
25 suited for admission, the corrections mental health program shall  
26 provide the prisoner with a written individual plan of services  
27 ~~pursuant~~ **ACCORDING** to section 712. Upon the prisoner's consent to

1 the individual plan of services, the corrections mental health  
2 program shall admit the prisoner to the program.

3 (b) Except as otherwise provided in subdivision (c), a  
4 prisoner who is voluntarily transferred under this section shall  
5 not be admitted to the corrections mental health program for more  
6 than 3 days, excluding Sundays and legal holidays, after the  
7 prisoner gives written notice of his or her intention to terminate  
8 the admission and return to the general population of the state  
9 correctional facility. If the corrections mental health program is  
10 advised by a prisoner of an intention to terminate admission, the  
11 program shall promptly provide the written form required for  
12 termination of admission and return the prisoner to the general  
13 population of the state correctional facility.

14 (c) If written notice of termination of admission has been  
15 given ~~pursuant~~ **ACCORDING** to subdivision (b) and has not been  
16 withdrawn, and if the director of the corrections mental health  
17 program determines that the prisoner continues to require mental  
18 health services, the director, or a person designated by the  
19 director, within 3 days, excluding Sundays and holidays, after the  
20 receipt by the corrections mental health program of the notice,  
21 shall provide the prisoner and the guardian of the person, if  
22 applicable, with a notice of hearing explaining hearing rights set  
23 forth in section 1003c. The prisoner shall not be medicated for 24  
24 hours prior to the hearing. If, following the hearing, the hearing  
25 committee finds that the prisoner does not require mental health  
26 services, the prisoner shall be placed according to normal  
27 procedures of the department of corrections. If the hearing

1 committee finds that the prisoner continues to require mental  
2 health services, the corrections mental health program shall  
3 continue to provide those services.

4       Sec. 1003c. (1) If a prisoner refuses treatment or services  
5 recommended under section 1003a or if the corrections mental health  
6 program determines that a voluntary admittee to the program who  
7 wishes to terminate admission continues to require mental health  
8 services, the corrections mental health program shall appoint a  
9 hearing committee to hear the matter. The hearing committee shall  
10 consist of a psychiatrist, a psychologist, and another mental  
11 health professional, whose licensure or registration requirements  
12 include a minimum of a baccalaureate degree from an accredited  
13 college or university, none of whom is, at the time of hearing,  
14 involved in the prisoner's treatment or diagnosis.

15       (2) A hearing under this section shall be held not less than  
16 24 hours after the prisoner and the guardian of the person, if  
17 applicable, are provided the documents required under section  
18 1003a(d) or section 1003b(c), but not more than 7 business days  
19 after the documents have been provided to the prisoner.

20       (3) A prisoner has the following rights with respect to the  
21 hearing under this section:

22       (a) Attendance at the hearing, and if the prisoner has a  
23 guardian of the person, the guardian's attendance at the hearing.

24       (b) Presentation of evidence, including witnesses, who may be  
25 family members, and cross-examination of witnesses, unless the  
26 hearing committee finds that the presentation, confrontation, or  
27 cross-examination would present a serious threat to the order and

1 security of the facility or the safety of the prisoner or others.

2 (c) Assistance of 1 of the following persons designated by the  
3 director of the corrections mental health program:

4 (i) A recipient rights advisor from the office of recipient  
5 rights.

6 (ii) A mental health professional who is not involved in the  
7 prisoner's treatment or diagnosis and whose licensure or  
8 registration requirements include a minimum of a baccalaureate  
9 degree from an accredited college or university.

10 (4) The hearing committee appointed under subsection (1) shall  
11 consider the report of the mental health professional who has  
12 alleged that the prisoner is mentally ill or ~~mentally retarded,~~  
13 **DEVELOPMENTALLY DISABLED**, the certificate described in section  
14 ~~1003a(1)(b),~~ **1003A(B)**, proof of service of the notice of hearing,  
15 proof of nonmedication for 24 hours prior to the hearing, and any  
16 other admissible evidence presented at the hearing. To be  
17 admissible, evidence shall be relevant, nonrepetitious, and of a  
18 type relied upon by a person in the conduct of everyday affairs.

19 (5) The hearing committee appointed under subsection (1) shall  
20 prepare an official record of the hearing including all evidence  
21 described in subsection (4). The hearing shall be recorded, but  
22 need not be transcribed unless requested by a party. A party who  
23 requests transcription shall pay for the transcription of the  
24 portion requested.

25 (6) After a hearing under this section, the hearing committee  
26 shall decide by a majority vote that includes an affirmative vote  
27 by the psychiatrist whether the prisoner is mentally ill or

1 ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** and whether the proposed  
2 mental health services are suitable to the prisoner's condition. If  
3 the hearing committee finds that the prisoner is mentally ill or  
4 ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** but that the proposed  
5 services are not suitable to the prisoner's condition, the hearing  
6 committee shall order services available within the corrections  
7 mental health program that are suitable to the prisoner's  
8 condition.

9 (7) Upon reaching a decision, the hearing committee shall  
10 prepare a report and order expressing the findings of the hearing  
11 committee and the basis for those findings. Each member shall  
12 indicate his or her agreement or disagreement with the hearing  
13 committee findings. Within 24 hours after the hearing, the hearing  
14 committee shall provide a copy of the hearing committee report and  
15 order to the prisoner.

16 (8) A prisoner may appeal the decision of the hearing  
17 committee under this section to the director of the corrections  
18 mental health program if the appeal is filed within 48 hours of the  
19 prisoner's receipt of the hearing committee's report and order  
20 under subsection (7). The director of the corrections mental health  
21 program shall render a decision within 2 business days after  
22 receipt of the appeal.

23 (9) A prisoner may appeal the decision of the director of the  
24 corrections mental health program under subsection (8) ~~pursuant~~  
25 **ACCORDING** to section 631 of the revised judicature act of 1961, ~~Act~~  
26 ~~No. 236 of the Public Acts of 1961, being section 600.631 of the~~  
27 ~~Michigan Compiled Laws, 1961 PA 236, MCL 600.631, except that no~~

1 oral argument shall be permitted. If the director of the  
2 corrections mental health program upholds the hearing committee's  
3 findings of mental illness or ~~mental retardation~~ **DEVELOPMENTAL**  
4 **DISABILITY** and the hearing committee's proposed services, the  
5 prisoner's treatment shall not be stayed pending the appeal.

6       Sec. 1004. (1) A prisoner shall continue to be credited with  
7 those good time credits and other statutory reductions of his or  
8 her penal sentence to which he or she is entitled while in the  
9 corrections mental health program, subject to the terms and  
10 conditions that are applicable in a state correctional facility.  
11 The prisoner shall continue to be subject to all disciplinary  
12 sanctions that are not attributable to the prisoner's mental  
13 illness or ~~mental retardation~~ **DEVELOPMENTAL DISABILITY**.

14       (2) At the time a prisoner is admitted to the corrections  
15 mental health program, the department of corrections shall notify  
16 the director of the corrections mental health program of the date  
17 on which the sentence of the prisoner is to expire and of any  
18 reductions of the sentence recorded to date. The corrections mental  
19 health program shall enter the sentence expiration date in the  
20 record it maintains for the prisoner.

21       Sec. 1005d. (1) An initial order for treatment under section  
22 1003c shall be for a period not to exceed 90 days.

23       (2) If, before the expiration of the initial 90-day order, the  
24 treating psychiatrist or psychologist believes that a prisoner  
25 continues to be mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY**  
26 **DISABLED** and requires mental health services, the treating  
27 psychiatrist or psychologist, not less than 14 days before the

1 expiration of the order, shall file with the director of the  
2 corrections mental health program or the director's designee a  
3 report of the determination that the prisoner continues to require  
4 those services. Upon receipt of the report under this subsection  
5 and proof of notice to the prisoner of an opportunity for a  
6 hearing, and following a hearing, if requested by the prisoner, a  
7 hearing committee appointed ~~pursuant to~~ **UNDER** section 1003c may  
8 authorize continued care in the corrections mental health program  
9 for an additional period not to exceed 90 days.

10 (3) If, before the expiration of the second 90-day order, the  
11 treating psychiatrist or psychologist believes that ~~the condition~~  
12 ~~of a prisoner is such that~~ the prisoner continues to be mentally  
13 ill or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** and requires  
14 mental health services, the treating psychiatrist or psychologist,  
15 not less than 14 days before the expiration of the order, shall  
16 file with the director of the corrections mental health program or  
17 the director's designee a report of the determination that the  
18 prisoner continues to require those services. Upon receipt of the  
19 report under this subsection and proof of notice to the prisoner of  
20 an opportunity for a hearing, and following a hearing, if requested  
21 by the prisoner, the hearing committee may authorize continued care  
22 in the corrections mental health program for an additional period  
23 not to exceed 180 days. Upon completion of the order for continuing  
24 admission to the corrections mental health program, if the treating  
25 psychiatrist or psychologist believes that the prisoner continues  
26 to be mentally ill or ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED**  
27 and requires mental health services, the treating psychiatrist or

1 psychologist shall request an initial order of admission pursuant  
2 ~~to~~**UNDER** section 1003c.

3 (4) A report of a determination under subsection (2) or (3)  
4 shall be accompanied by a certificate executed by the psychiatrist  
5 or psychologist and shall contain a statement setting forth all of  
6 the following:

7 (a) The reasons for the treating psychiatrist's or  
8 psychologist's determination that the prisoner continues to be  
9 mentally ill or ~~mentally retarded~~**DEVELOPMENTALLY DISABLED** and  
10 requires mental health services.

11 (b) A statement describing the treatment program provided to  
12 the prisoner.

13 (c) The results of the course of treatment.

14 (d) A clinical estimate as to the time further treatment will  
15 be required.

16 (5) If at any hearing held under this section the hearing  
17 committee appointed under section 1003c finds that the prisoner is  
18 not mentally ill or ~~mentally retarded~~**DEVELOPMENTALLY DISABLED**,  
19 the hearing committee shall enter a finding to that effect and the  
20 prisoner shall be placed according to normal procedures of the  
21 department of corrections.

22 Sec. 1006. (1) A prisoner admitted to the corrections mental  
23 health program pursuant ~~to~~**ACCORDING** to section 1003a or section 1003b  
24 shall be discharged from the program when 1 or ~~more~~**BOTH** of the  
25 following occur:

26 (a) The prisoner ceases to require mental health services.

27 (b) The prisoner is paroled or discharged from prison.



1           (2) If a prisoner is to be discharged from the corrections  
2 mental health program before the expiration of the prisoner's  
3 criminal sentence, the director of the corrections mental health  
4 program shall first notify the department of corrections of the  
5 pending discharge, and shall transmit a full report on the  
6 condition of the prisoner to the department of corrections.

7           (3) If the prisoner is paroled or discharged from prison, and  
8 the corrections mental health program considers the prisoner to be  
9 a person requiring treatment, as defined in section 401, or a  
10 person who meets the criteria for judicial admission, as prescribed  
11 in section 515, the director of the corrections mental health  
12 program at least 14 days before the parole date or the date of  
13 discharge shall file a petition ~~pursuant to~~ **UNDER** section 434 or  
14 section 516 asserting that the prisoner is a person requiring  
15 treatment or that the prisoner meets the criteria for judicial  
16 admission. The petition shall be filed with the probate court of  
17 the prisoner's county of residence.

18           (4) The department of ~~mental~~ **COMMUNITY** health is responsible  
19 for assuring that needed aftercare reintegration and community-  
20 based mental health services are offered to mentally ill and  
21 ~~mentally retarded~~ **DEVELOPMENTALLY DISABLED** persons who are leaving  
22 prison, upon referral by the department of corrections. Upon  
23 request from the department of corrections, community-based mental  
24 health services shall be provided by the department of ~~mental~~  
25 **COMMUNITY** health throughout the parole period.