SENATE BILL NO. 191

February 25, 2021, Introduced by Senators VANDERWALL, BIZON, THEIS, MACDONALD, LASATA, OUTMAN, WOJNO, BRINKS, POLEHANKI, HERTEL, ALEXANDER, JOHNSON, MOSS, SANTANA, BULLOCK and SCHMIDT and referred to the Committee on Health Policy and Human Services.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

(a) Communication.

(b) Self-care.

(c) Home living.

(d) Social skills.

(e) Community use.
(f) Self-direction.
(g) Health and safety.
(h) Functional academics.
(i) Leisure.
(j) Work.

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

(5) "Alcohol and drug abuse counseling" means the act of counseling, modification of substance use disorder related behavior, and prevention techniques for individuals with substance use disorder, their significant others, and individuals who could potentially develop a substance use disorder.

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

(6) "Approved service program" means a substance use disorder services program licensed under part 62 of the public health code, 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use disorder treatment and rehabilitation services by the department-designated community mental health entity and approved by the federal government to deliver a service or combination of services for the treatment of incapacitated individuals.

(7) "Assisted outpatient treatment" or "AOT" means the categories of outpatient services ordered by the court under section 468 or 469a. Assisted outpatient treatment may include a case management plan and case management services to provide care coordination under the supervision of a psychiatrist and developed in accordance with person-centered planning under section 712. Assisted outpatient treatment may also include 1 or more of the
following categories of services: medication; periodic blood tests or urinalysis to determine compliance with prescribed medications; individual or group therapy; day or partial day programming activities; vocational, educational, or self-help training or activities; assertive community treatment team services; alcohol or substance use disorder treatment and counseling and periodic tests for the presence of alcohol or illegal drugs for an individual with a history of alcohol abuse or substance use disorder; supervision of living arrangements; and any other services within a local or unified services plan developed under this act that are prescribed to treat the individual's mental illness and to assist the individual in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior. The medical review and direction included in an assisted outpatient treatment plan shall be provided under the supervision of a psychiatrist.

(8) "Board" means the governing body of a community mental health services program.

(9) "Board of commissioners" means a county board of commissioners.

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

(11) "Certification" means formal approval of a program by the department in accordance with standards developed or approved by the department.

(12) "Certified nurse practitioner" means a registered professional nurse who holds a specialty certification as a nurse
practitioner under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(13) "Child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(14) "Child and adolescent psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in child and adolescent psychiatry approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who has completed 12 months of child and adolescent psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract as a child and adolescent psychiatrist with the department or a community mental health services program on March 28, 1996, who has education and clinical experience in the evaluation and treatment of children or adolescents with serious emotional disturbance.

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

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

(16) "Clinical nurse specialist-certified" means an individual who is licensed as a registered professional nurse under part 172
of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242, who has been granted a specialty certification as a clinical nurse specialist by the Michigan board of nursing under section 17210 of the public health code, 1978 PA 368, MCL 333.17210.

(17) "Community mental health authority" means a separate legal public governmental entity created under section 205 to operate as a community mental health services program.

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

(19) "Community mental health services program" means a program operated under chapter 2 as a county community mental health agency, a community mental health authority, or a community mental health organization.

(20) "Consent" means a written agreement executed by a recipient, a minor recipient's parent, a recipient's legal representative with authority to execute a consent, or a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent, or a verbal agreement of a recipient that is witnessed and documented by an individual other than the individual providing treatment.

(21) "County community mental health agency" means an official county or multicounty agency created under section 210 that operates as a community mental health services program and that has not elected to become a community mental health authority or a community mental health organization.

(22) "Crisis stabilization unit" means a prescreening
unit established under section 409 or a facility certified under chapter 9A that provides unscheduled clinical services designed to prevent or ameliorate a behavioral health crisis or reduce acute symptoms on an immediate, intensive, and time-limited basis in response to a crisis situation.

(23) "Department" means the department of health and human services.

(24) "Department-designated community mental health entity" means the community mental health authority, community mental health organization, community mental health services program, county community mental health agency, or community mental health regional entity designated by the department to represent a region of community mental health authorities, community mental health organizations, community mental health services programs, or county community mental health agencies.

(25) "Dependent living setting" means all of the following:

(a) An adult foster care facility.
(b) A nursing home licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.
(c) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(26) "Designated representative" means any of the following:

(a) A registered nurse or licensed practical nurse licensed or otherwise authorized under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.
(b) A paramedic licensed or otherwise authorized under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to
(c) A physician's physician assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17097 and 333.17501 to 333.17556.

(d) An individual qualified by education, training, and experience who performs acts, tasks, or functions under the supervision of a physician.

(27) "Developmental disability" means either of the following:

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

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

(ii) Is manifested before the individual is 22 years old.

(iii) Is likely to continue indefinitely.

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

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.
(b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(28) (27) "Director" means the director of the department or his or her designee.

(29) (28) "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.

(30) (29) "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a multidisciplinary team under rules promulgated by the department of education to be classified as 1 of the following:

(a) Severely mentally impaired.
(b) Severely multiply impaired.
(c) Autistic impaired and receiving special education services in a program designed for the autistic impaired under R 340.1758 of the Michigan Administrative Code or in a program designed for the severely mentally impaired or severely multiply impaired.

(31) (30) "Emergency situation" means a situation in which an individual is experiencing a serious mental illness or a developmental disability, or a minor is experiencing a serious emotional disturbance, and 1 of the following applies:

(a) The individual can reasonably be expected within the near future to physically injure himself, herself, or another individual, either intentionally or unintentionally.
(b) The individual is unable to provide himself or herself food, clothing, or shelter or to attend to basic physical
activities such as eating, toileting, bathing, grooming, dressing, or ambulating, and this inability may lead in the near future to harm to the individual or to another individual.

(c) The individual has mental illness that has impaired his or her judgment so that the individual is unable to understand his or her need for treatment and presents a risk of harm.

(32) "Executive director" means an individual appointed under section 226 to direct a community mental health services program or his or her designee.

Sec. 100b. (1) Except as otherwise provided in this subsection, "facility" means a residential facility for the care or treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability that is either a state facility or a licensed facility. Facility includes a preadmission screening unit established under section 409 that is operating a crisis stabilization unit.

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

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

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

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

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

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

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

(7) "Hospital" or "psychiatric hospital" means an inpatient program operated by the department for the treatment of individuals with serious mental illness or serious emotional disturbance or a psychiatric hospital or psychiatric unit licensed under section 137.

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

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

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

(11) "Individual plan of services" or "plan of services" means a written individual plan of services developed with a recipient as required by section 712.
(12) "Individual representative" means a recipient's legal
guardian, minor recipient's parent, or other person authorized by
law to represent the recipient in decision-making related to the
recipient's services and supports.

(13) "Intellectual disability" means a condition manifesting
before the age of 18 years that is characterized by significantly
subaverage intellectual functioning and related limitations in 2 or
more adaptive skills and that is diagnosed based on the following
assumptions:
   (a) Valid assessment considers cultural and linguistic
diversity, as well as differences in communication and behavioral
factors.
   (b) The existence of limitation in adaptive skills occurs
within the context of community environments typical of the
individual's age peers and is indexed to the individual's
particular needs for support.
   (c) Specific adaptive skill limitations often coexist with
strengths in other adaptive skills or other personal capabilities.
   (d) With appropriate supports over a sustained period, the
life functioning of the individual with an intellectual disability
will generally improve.

(14) "Licensed facility" means a facility licensed by the
department under section 137 or an adult foster care facility.

(15) "Licensed psychologist" means a doctoral level
psychologist licensed under section 18223(1) of the public health
code, 1978 PA 368, MCL 333.18223.

(16) "Mediation" means a confidential process in which a
neutral third party facilitates communication between parties,
assists in identifying issues, and helps explore solutions to
promote a mutually acceptable resolution. A mediator does not have authoritative decision-making power.

(17) "Medicaid" means the program of medical assistance established under section 105 of the social welfare act, 1939 PA 280, MCL 400.105.

(18) "Medical director" means a psychiatrist appointed under section 231 to advise the executive director of a community mental health services program.

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

(a) A physician.

(b) A psychologist.

(c) A registered professional nurse licensed or otherwise authorized to engage in the practice of nursing under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242.

(d) A licensed master's social worker licensed or otherwise authorized to engage in the practice of social work at the master's level under part 185 of the public health code, 1978 PA 368, MCL 333.18501 to 333.18518.

(e) A licensed professional counselor licensed or otherwise authorized to engage in the practice of counseling under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(f) A marriage and family therapist licensed or otherwise authorized to engage in the practice of marriage and family therapy under part 169 of the public health code, 1978 PA 368, MCL 333.16901 to 333.16915.

(g) A physician assistant.

(h) A certified nurse practitioner.
(i) A clinical nurse specialist-certified.

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

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

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

Sec. 100c. (1) "Peace officer" means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for preventing and detecting crime and enforcing the criminal laws of this state. For the purposes of sections 408, 426, 427a, and 427b, peace officer also includes an officer of the United States Secret Service with the officer's consent and a police officer of the Veterans' Administration Medical Center Reservation.

(2) "Peer review" means a process, including the review process required under section 143a, in which mental health professionals of a state facility, licensed hospital, or community mental health services program evaluate the clinical competence of staff and the quality and appropriateness of care provided to recipients. Peer review evaluations are confidential in accordance
with section 748(9) and are based on criteria established by the
facility or community mental health services program itself, the
accepted standards of the mental health professions, and the
department.

(3) "Person requiring treatment" means an individual who meets
the criteria described in section 401.

(4) "Physician" means an individual licensed or otherwise
authorized to engage in the practice of medicine under part 170 of
the public health code, 1978 PA 368, MCL 333.17001 to 333.17097, or
to engage in the practice of osteopathic medicine and surgery under
part 175 of the public health code, 1978 PA 368, MCL 333.17501 to
333.17556.

(5) "Physician assistant" means an individual practicing as a
physician's assistant as that term is defined in sections 17001 and
17501 of the public health code, 1978 PA 368, MCL 333.17001 and
333.17501.

(6) "Primary consumer" means an individual who has
received or is receiving services from the department or a
community mental health services program or services from the
private sector equivalent to those offered by the department or a
community mental health services program.

(7) "Priority" means preference for and dedication of a
major proportion of resources to specified populations or services.
Priority does not mean serving or funding the specified populations
or services to the exclusion of other populations or services.

(8) "Protective custody" means the temporary custody of an
individual by a peace officer with or without the individual's
consent for the purpose of protecting that individual's health and
safety, or the health and safety of the public, and for the purpose
of transporting the individual under section 276, 408, or 427 if
the individual appears, in the judgment of the peace officer, to be
a person requiring treatment or is a person requiring treatment.
Protective custody is civil in nature and is not an arrest.

(9) "Psychiatric residential treatment facility" or "PRTF"
means a facility other than a hospital that provides psychiatric
services, as described in 42 CFR 441.151 to 441.182, in an
inpatient setting to individuals under age 21.

(10) "Psychiatric unit" means a unit of a general hospital
that provides inpatient services for individuals with serious
mental illness or serious emotional disturbance. As used in this
subsection, "general hospital" means a hospital as defined in
section 20106 of the public health code, 1978 PA 368, MCL
333.20106.

(11) "Psychiatrist" means 1 or more of the following:
(a) A physician who has completed a residency program in
psychiatry approved by the Accreditation Council for Graduate
Medical Education or the American Osteopathic Association, or who
has completed 12 months of psychiatric rotation and is enrolled in
an approved residency program as described in this subdivision.
(b) A psychiatrist employed by or under contract with the
department or a community mental health services program on March
28, 1996.
(c) A physician who devotes a substantial portion of his or
her time to the practice of psychiatry and is approved by the
director.

(12) "Psychologist" means an individual who is licensed
or otherwise authorized to engage in the practice of psychology
under part 182 of the public health code, 1978 PA 368, MCL
333.18201 to 333.18237, and who devotes a substantial portion of
his or her time to the diagnosis and treatment of individuals with
serious mental illness, serious emotional disturbance, substance
use disorder, or developmental disability.

(13) "Public patient" means an individual approved for
mental health services by a community mental health services
program. Public patient includes an individual who is admitted as a
patient under section 423, 429, or 438.

(14) "Recipient" means an individual who receives mental
health services, either in person or through telemedicine, from the
department, a community mental health services program, or a
facility or from a provider that is under contract with the
department or a community mental health services program. For the
purposes of this act, recipient does not include an individual
receiving substance use disorder services under chapter 2A unless
that individual is also receiving mental health services under this
act in conjunction with substance use disorder services.

(15) "Recipient rights advisory committee" means a
committee of a community mental health services program board
appointed under section 757 or a recipient rights advisory
committee appointed by a licensed hospital under section 758.

(16) "Recovery" means a highly individualized process of
healing and transformation by which the individual gains control
over his or her life. Related services include recovery management,
recovery support services, recovery houses or transitional living
programs, and relapse prevention. Recovery involves the development
of a new meaning, purpose, and growing beyond the impact of
addiction or a diagnosis. Recovery may include the pursuit of
spiritual, emotional, mental, or physical well-being.
"Regional entity" means an entity established under section 204b to provide specialty services and supports.

"Registered professional nurse" means that term as defined in section 17201 of the public health code, 1978 PA 368, MCL 333.17201.

"Rehabilitation" means the act of restoring an individual to a state of mental and physical health or useful activity through vocational or educational training, therapy, and counseling.

"Resident" means an individual who receives services in a facility.

"Responsible mental health agency" means the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.


Sec. 281b. (1) Upon receipt of a petition filed under section 281a and the payment of the filing fee, if any, the court shall examine the petitioner under oath as to the contents of the petition.

(2) If, after reviewing the contents of the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent may reasonably benefit from treatment, the court shall do all of the following:

(a) Schedule a hearing to be held within 7 days to determine if there is clear and convincing evidence that the respondent may reasonably benefit from treatment.
(b) Notify the respondent and all other individuals named in the petition under section 281a(3)(d) to (h) concerning the allegations and contents of the petition and of the date and the purpose of the hearing.

(c) Notify the respondent that the respondent may retain counsel and, if the respondent is unable to retain counsel, that the respondent may be represented by court-appointed counsel at public expense if the respondent is indigent. Upon the appointment of court-appointed counsel for an indigent respondent, the court shall notify the respondent of the name, address, and telephone number of the court-appointed counsel.

(d) Notify the respondent that the court will cause the respondent to be examined not later than 24 hours before the hearing date by a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified for the purpose of a physical examination and by an independent health professional for the purpose of a substance use disorder assessment and diagnosis. In addition, the court shall notify the respondent that the respondent may have an independent expert evaluation of his or her physical and mental condition conducted at the respondent's own expense.

(e) Cause the respondent to be examined not later than 24 hours before the hearing date by a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified for the purpose of a physical examination and by an independent health professional for the purpose of a substance use disorder assessment and diagnosis.

(f) Conduct the hearing.

(3) The physician, physician assistant, certified nurse
practitioner, or clinical nurse specialist-certified who examined the respondent for the purpose of a physical examination, the health professional who examined the respondent for the purpose of the substance use disorder assessment and diagnosis, and, if applicable, the individual who conducted the independent expert evaluation of the respondent's physical and mental condition at the respondent's expense shall certify his or her findings to the court within 24 hours after the examination. The findings must include a recommendation for treatment if the physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, health professional, or individual determines that treatment is necessary.

(4) If, upon completion of the hearing held under this section, the court finds by clear and convincing evidence that the requirements of section 281a(1) are met, the court may order the involuntary treatment of the respondent after considering the recommendations for treatment that were submitted to the court under subsection (3). If ordered, the court shall order the involuntary treatment to be provided by an approved service program or by a health professional qualified by education and training to provide the treatment.

(5) A respondent who fails to undergo and complete the treatment ordered under subsection (4) is in contempt of court. An approved service program to which or health professional to whom a respondent is ordered for treatment under subsection (4) shall must notify the court of a respondent's failure to undergo or complete treatment ordered under subsection (4).

(6) If at any time after a petition is filed under section 281a the court finds that there is not probable cause to order or
continue treatment or the petitioner withdraws the petition, the court shall dismiss the proceedings against the respondent.

(7) As used in this section, "substance use disorder assessment and diagnosis" includes an evaluation of all of the following:

(a) Whether the individual has a substance use disorder.
(b) Whether the individual presents an imminent danger or imminent threat of danger to self, family, or others as a result of the substance use disorder, or whether a substantial likelihood of the threat of danger in the near future exists.
(c) Whether the individual can reasonably benefit from treatment.

Sec. 400. As used in this chapter, unless the context requires otherwise:

(a) "Clinical certificate" means the written conclusion and statements of a physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or a licensed psychologist that an individual is a person requiring treatment, together with the information and opinions, in reasonable detail, that underlie the conclusion, on the form prescribed by the department or on a substantially similar form.
(b) "Competent clinical opinion" means the clinical judgment of a physician, psychiatrist, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist.
(c) "Court" means the probate court or the court with responsibility with regard to mental health services for the county of residence of the subject of a petition, or for the county in which the subject of a petition was found.
(d) "Formal voluntary hospitalization" means hospitalization of an individual based on both of the following:

(i) The execution of an application for voluntary hospitalization by the individual or by a patient advocate designated under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, to make mental health treatment decisions for the individual.

(ii) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(e) "Informal voluntary hospitalization" means hospitalization of an individual based on all of the following:

(i) The individual's request for hospitalization.

(ii) The hospital director's determination that the individual is clinically suitable for voluntary hospitalization.

(iii) The individual's agreement to accept treatment.

(f) "Involuntary mental health treatment" means court-ordered hospitalization, assisted outpatient treatment, or combined hospitalization and assisted outpatient treatment as described in section 468. For the purpose of this chapter, involuntary mental health treatment does not include a full or limited guardian authorized under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, with the authority to consent to mental health treatment for an individual found to be a legally incapacitated individual under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206.

(g) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
(h) "Preadmission screening unit" means a service component of a community mental health services program established under section 409.

(i) "Private-pay patient" means a patient whose services and care are paid for from funding sources other than the community mental health services program, the department, or other state or county funding.

(j) "Release" means the transfer of an individual who is subject to an order of combined hospitalization and assisted outpatient treatment from 1 treatment program to another in accordance with his or her individual plan of services.

(k) "Subject of a petition" means an individual regarding whom a petition has been filed with the court asserting that the individual is or is not a person requiring treatment or for whom an objection to involuntary mental health treatment has been made under section 484.

Sec. 420. If a written notice of termination of mental health treatment is given to a hospital or provider of mental health treatment under section 419, if the notice is not withdrawn, and if the hospital director or provider of mental health treatment determines that the patient is a person requiring treatment and should remain in the hospital or continue to receive mental health treatment, the hospital director, provider of mental health treatment, or other suitable person shall within 3 days after receipt of the notice file a petition with the court that complies with section 434. The petition shall must be accompanied by 1 clinical certificate executed by a psychiatrist and 1 clinical certificate executed by either a physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified,
or licensed psychologist. If a petition is filed, the hospital or provider of mental health may continue hospitalization or mental health treatment of the patient pending hearings convened under sections 451 to 465.

Sec. 423. A hospital designated by the department or by a community mental health services program shall hospitalize an individual presented to the hospital, pending receipt of a clinical certificate by a psychiatrist stating that the individual is a person requiring treatment, if a petition, a physician's, physician assistant's, certified nurse practitioner's, clinical nurse specialist-certified's, or licensed psychologist's clinical certificate, and an authorization by a preadmission screening unit have been executed. For an individual hospitalized under this section, a petition shall have been executed not more than 10 days before the presentation of the individual to the hospital, and the petition must meet the conditions set forth in section 434(1) and (2).

Sec. 425. A physician's, physician assistant's, certified nurse practitioner's, clinical nurse specialist-certified's, or licensed psychologist's clinical certificate required for hospitalization of an individual under section 423 shall have been executed after personal examination of the individual named in the clinical certificate, and within 72 hours before the time the clinical certificate is received by the hospital. The clinical certificate may be executed by any physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist, including a physician or licensed psychologist who is a staff member or employee of the hospital that received the clinical certificate.
Sec. 426. Upon delivery to a peace officer of a petition and a physician's, physician assistant's, certified nurse practitioner's, clinical nurse specialist-certified's, or licensed psychologist's clinical certificate, the peace officer shall take the individual named in the petition into protective custody and transport the individual immediately to the preadmission screening unit or hospital designated by the community mental health services program for hospitalization under section 423. If the individual taken to a preadmission screening unit meets the requirements for hospitalization, then unless the community mental health services program makes other transportation arrangements, the peace officer shall take the individual to a hospital designated by the community mental health services program. Transportation to another hospital due to a transfer is the responsibility of the community mental health services program.

Sec. 427. (1) If a peace officer observes an individual conducting himself or herself in a manner that causes the peace officer to reasonably believe that the individual is a person requiring treatment, the peace officer may take the individual into protective custody and transport the individual to a preadmission screening unit designated by a community mental health services program for examination under section 429 or for mental health intervention services. The preadmission screening unit shall provide those mental health intervention services that it considers appropriate or shall provide an examination under section 429. The preadmission screening services may be provided at the site of the preadmission screening unit or at a site designated by the preadmission screening unit. Upon arrival at the preadmission screening unit or site designated by the preadmission screening
unit, the peace officer shall execute a petition for
hospitalization of the individual. As soon as practical, the
preadmission screening unit shall offer to contact an immediate
family member of the recipient to let the family know that the
recipient has been taken into protective custody and where he or
she is located. The preadmission screening unit shall honor the
recipient's decision as to whether an immediate family member is to
be contacted and shall document that decision in the recipient's
record. In the course of providing services, the preadmission
screening unit may provide advice and consultation to the peace
officer, which may include a recommendation to release the
individual from protective custody. In all cases where a peace
officer has executed a petition, the preadmission screening unit
shall ensure that an examination is conducted by a physician,
physician assistant, certified nurse practitioner, clinical nurse
specialist-certified, or licensed psychologist. The preadmission
screening unit shall ensure provision of follow-up counseling and
diagnostic and referral services if needed if it is determined
under section 429 that the person does not meet the requirements
for hospitalization.

(2) A peace officer is not financially responsible for the
cost of care of an individual for whom a peace officer has executed
a petition under subsection (1).

(3) A hospital receiving an individual under subsection (1)
who has been referred by a community mental health services
program's preadmission screening unit shall notify that unit of the
results of an examination of that individual conducted by the
hospital.

Sec. 429. (1) A hospital designated under section 422 shall
receive and detain an individual presented for examination under section 426, 427, 435, 436, or 438, for not more than 24 hours. During that time the individual shall be examined by a physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or a licensed psychologist unless a clinical certificate has already been presented to the hospital. If the examining physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist does not certify that the individual is a person requiring treatment, the individual shall be released immediately. If the examining physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist executes a clinical certificate, the individual may be hospitalized under section 423.

(2) If a preadmission screening unit provides an examination under section 409, 410, or 427, the examination shall must be conducted as soon as possible after the individual arrives at the preadmission screening site, and the examination shall must be completed within 2 hours, unless there are documented medical reasons why the examination cannot be completed within that time frame or other arrangements are agreed upon by the peace officer and the preadmission screening unit.

Sec. 430. If a patient is hospitalized under section 423, the patient shall must be examined by a psychiatrist as soon after hospitalization as is practicable, but not later than 24 hours, excluding legal holidays, after hospitalization. The examining psychiatrist shall must not be the same physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified upon whose clinical certificate the patient
was hospitalized. If the psychiatrist does not certify that the patient is a person requiring treatment, the patient must be released immediately. If the psychiatrist does certify that the patient is a person requiring treatment, the patient's hospitalization may continue pending hearings convened pursuant to sections 451 to 465.

Sec. 434. (1) Any individual 18 years of age or over may file with the court a petition that asserts that an individual is a person requiring treatment.

(2) The petition must contain the facts that are the basis for the assertion, the names and addresses, if known, of any witnesses to the facts, and, if known, the name and address of the nearest relative or guardian, or, if none, a friend, if known, of the individual.

(3) Except as provided in subsection (7), the petition shall be accompanied by the clinical certificate of a physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or a licensed psychologist, unless after reasonable effort the petitioner could not secure an examination. If a clinical certificate does not accompany the petition, the petitioner shall set forth the reasons an examination could not be secured within the petition. The petition may also be accompanied by a second clinical certificate. If 2 clinical certificates accompany the petition, at least 1 clinical certificate must have been executed by a psychiatrist.

(4) Except as otherwise provided in subsection (7) and section 455, a clinical certificate that accompanies a petition must have been executed within 72 hours before the filing of the petition and after personal examination of the individual.
(5) If the individual is found not to be a person requiring treatment under this section, the petition and any clinical certificate shall be maintained by the court as a confidential record to prevent disclosure to any person who is not specifically authorized under this chapter to receive notice of the petition or clinical certificate.

(6) The petition described in this section may assert that the subject of the petition should receive assisted outpatient treatment in accordance with section 468(2)(d).

(7) A petition that does not seek hospitalization but only requests that the subject of the petition receive assisted outpatient treatment is not subject to subsection (3) or (4).

Sec. 435. (1) If the petition is accompanied by 1 clinical certificate, the court shall order the individual to be examined by a psychiatrist.

(2) If the petition is not accompanied by a clinical certificate, and if the court is satisfied a reasonable effort was made to secure an examination, the court shall order the individual to be examined by a psychiatrist and either a physician, a physician assistant, a certified nurse practitioner, a clinical nurse specialist-certified, or a licensed psychologist.

(3) The individual may be received and detained at the place of examination as long as necessary to complete the examination or examinations, but not more than 24 hours.

(4) After an examination ordered under subsection (1), the examining psychiatrist shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted. After each examination ordered under subsection (2), the examining psychiatrist, or the examining
physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist, as applicable, shall either transmit a clinical certificate to the court or report to the court that execution of a clinical certificate is not warranted.

(5) If 1 examination was ordered and the examining psychiatrist reports that execution of a clinical certificate is not warranted, or if 2 examinations were ordered and 1 of the examining physicians or the physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist reports that execution of a clinical certificate is not warranted, the court shall dismiss the petition or order the individual to be examined by a psychiatrist, or if a psychiatrist is not available, by a physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist. If a third examination report states that execution of a clinical certificate is not warranted, the court shall dismiss the petition.

(6) This section does not apply to a petition filed under section 434(7).

Sec. 438. If it appears to the court that the individual requires immediate assessment because the individual presents a substantial risk of significant physical or mental harm to himself or herself in the near future or presents a substantial risk of significant physical harm to others in the near future, the court may order the individual hospitalized and may order a peace officer to take the individual into protective custody and transport the individual to a preadmission screening unit designated by the community mental health services program. If the preadmission
screening unit authorizes hospitalization, the peace officer shall
transport the individual to a hospital designated by the community
mental health services program, unless other arrangements are
provided by the preadmission screening unit. If the examinations
and clinical certificates of the psychiatrist, and the physician,
the physician assistant, the certified nurse practitioner, the
clinical nurse specialist-certified, or the licensed psychologist,
are not completed within 24 hours after hospitalization, the
individual shall must be released.

Sec. 452. (1) The court shall fix a date for every hearing
convened under this chapter. Except as provided in subsection (2),
the hearing shall must be convened promptly, but not more than 7
days after the court's receipt of any of the following:
(a) A petition for a determination that an individual is a
person requiring treatment, a clinical certificate executed by a
physician, a physician assistant, a certified nurse practitioner, a
clinical nurse specialist-certified, or a licensed psychologist,
and a clinical certificate executed by a psychiatrist.
(b) A petition for a determination that an individual
continues to be a person requiring treatment and a clinical
certificate executed by a psychiatrist.
(c) A petition for discharge filed under section 484.
(d) A demand or notification that a hearing that has been
temporarily deferred under section 455(6) be convened.
(2) A hearing for a petition under section 434(7) shall be
convened not more than 28 days after the filing of the petition,
unless the petition was filed while the subject of the petition was
an inpatient at a psychiatric hospital, in which case the hearing
shall be convened within 7 days of the filing of after the petition
Sec. 461. (1) An individual may not be found to require treatment unless at least 1 physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist who has personally examined that individual testifies in person or by written deposition at the hearing.

(2) For a petition filed under section 434(7), that does not seek hospitalization before the hearing, an individual may not be found to require treatment unless a psychiatrist who has personally examined that individual testifies. A psychiatrist's testimony is not necessary if a psychiatrist signs the petition. If a psychiatrist signs the petition, at least 1 physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist who has personally examined that individual must testify. The requirement for testimony may be waived by the subject of the petition. If the testimony given in person is waived, a clinical certificate completed by a physician, licensed psychologist, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or psychiatrist must be presented to the court before or at the initial hearing.

(3) The examinations required under this section for a petition filed under section 434(7) shall be arranged by the court and the local community mental health services program or other entity as designated by the department.

(4) A written deposition may be introduced as evidence at the hearing only if the attorney for the subject of the petition was given the opportunity to be present during the taking of the deposition and to cross-examine the deponent. This testimony or
deposition may be waived by the subject of a petition. An individual may be found to require treatment even if the petitioner does not testify, as long as there is competent evidence from which the relevant criteria in section 401 can be established.

Sec. 463. (1) If requested before the first scheduled hearing or at the first scheduled hearing before the first witness has been sworn on a petition, the subject of a petition in a hearing under this chapter has the right at his or her own expense, or if indigent, at public expense, to secure an independent clinical evaluation by a physician, psychiatrist, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist of his or her choice relevant to whether he or she requires treatment, whether he or she should be hospitalized or receive treatment other than hospitalization, and whether he or she is of legal capacity.

(2) Compensation for an evaluation performed by a physician, a physician assistant, a certified nurse practitioner, a clinical nurse specialist-certified, or a licensed psychologist shall be in an amount that is reasonable and based upon time and expenses.

(3) The independent clinical evaluation described in this section is for the sole use of the subject of the petition. The independent clinical evaluation or the testimony of the individual performing the evaluation shall not be introduced into evidence without the consent of the subject of the petition.

Sec. 498o. (1) Except as provided in subsection (4), a minor hospitalized under this chapter shall not be kept in the hospital more than 3 days, excluding Sundays and holidays, after receipt by the hospital of a written notice of intent to terminate the hospitalization of the minor executed by the minor's parent,
guardian, or person in loco parentis or by the minor if the minor
is 14 years of age or older and was admitted to the hospital upon
his or her own request.

(2) Upon receipt of an oral request to terminate
hospitalization of a minor pursuant to subsection (1), the
hospital promptly shall supply the necessary form for termination
of hospitalization to the person giving notice.

(3) Upon receipt of notice or an oral request under subsection
(1) or (2) by a hospital under contract with the community mental
health services program, the hospital director immediately shall
notify the executive director.

(4) If notice of intent to terminate hospitalization is
received by a hospital under subsection (1) or (2), and the
director of the hospital determines that the minor to whom the
notice applies should remain in the hospital, the director of the
hospital or a person designated by the director of the hospital
shall file, within 3 days, excluding Sundays and holidays, after
receipt of the notice, a petition with the court requesting an
order to continue hospitalization of the minor. The petition shall
must be accompanied by 1 certificate executed by a child and
adolescent psychiatrist and 1 certificate executed by either a
physician, a physician assistant, a certified nurse practitioner, a
clinical nurse specialist-certified, or a licensed psychologist. If
a petition is filed with the court under this subsection, the
hospital shall continue to hospitalize the minor pending a court
hearing on the petition.

(5) Upon receipt of a petition to continue hospitalization of
a minor under subsection (4), the court shall schedule a hearing to
be held within 7 days, excluding Sundays and holidays, after
receipt of the petition. The hearing shall be convened in accordance with sections 451 to 465.

(6) If the court finds the minor to be suitable for hospitalization by clear and convincing evidence, the court shall order the minor to continue hospitalization for not more than 60 days. If the court does not find by clear and convincing evidence that the minor is suitable for hospitalization, the court shall order the minor discharged from the hospital.

Sec. 517. (1) A hearing convened to determine whether an individual meets the criteria for treatment is governed by this section and sections 517-518 to 522. Sections 517-518 to 522 do not apply to a hearing provided for in section 511 concerning an objection to an administrative admission.

(2) Upon receipt of a petition and a report as provided for in section 516 or 532, or receipt of a petition as provided for in section 531, the court shall do all of the following:

(a) Fix a date for a hearing to be held within 7 days, excluding Sundays or holidays, after the court's receipt of the documents or document.

(b) Fix a place for a hearing, either at a facility or other convenient place, within or outside of the county.

(c) Cause notice of a petition and of the time and place of any hearing to be given to the individual asserted to meet the criteria for treatment, his or her attorney, the petitioner, the prosecuting or other attorney specified in subsection (4), the community mental health services program, the director of a facility to which the individual is admitted, the individual's spouse if his or her whereabouts are known, the guardian, if any, of the individual, and other relatives or persons as the court may
determine. The notice shall be given at the earliest practicable
time and sufficiently in advance of the hearing date to permit
preparation for the hearing.
(d) Cause the individual to be given within 4 days after the court's receipt of the documents described in section 516 a copy of the petition, a copy of the report, unless the individual has previously been given a copy of the petition and the report, notice of the right to a full court hearing, notice of the right to be present at the hearing, notice of the right to be represented by legal counsel, notice of the right to demand a jury trial, and notice of the right to an independent clinical or psychological evaluation.
(e) Subsequently give copies of all orders to the persons identified in subdivision (c).
(3) The individual asserted to meet the criteria for treatment is entitled to be represented by legal counsel in the same manner as counsel is provided under section 454, and is entitled to all of the following:
(a) To be present at the hearing.
(b) To have upon demand a trial by jury of 6.
(c) To obtain a continuance for any reasonable time for good cause.
(d) To present documents and witnesses.
(e) To cross-examine witnesses.
(f) To require testimony in court in person from 1 physician, 1 physician assistant, 1 certified nurse practitioner, 1 clinical nurse specialist-certified, or 1 licensed psychologist who has personally examined the individual.
(g) To receive an independent examination by a physician,
physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist of his or her choice on the issue of whether he or she meets the criteria for treatment.

(4) The prosecuting attorney of the county in which a court has its principal office shall participate, either in person or by assistant, in hearings convened by the court of his or her county under this chapter, except that a prosecutor need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for a finding that the individual meets the criteria for treatment.

(5) Unless the individual or his or her attorney objects, the failure to timely notify a spouse, guardian, or other person determined by the court to be entitled to notice is not cause to adjourn or continue any a hearing.

(6) The individual, any an interested person, or the court on its own motion may request a change of venue because of residence; convenience to parties, witnesses, or the court; or the individual's mental or physical condition.

Sec. 532. In addition to the right to a hearing under section 531, a resident admitted by court order has the right to a hearing and may petition the court for discharge without leave of court once within each 12-month period from the date of the original order of admission. The petition shall must be accompanied by a physician's, a physician assistant's, a certified nurse practitioner's, a clinical nurse specialist-certified's, or a licensed psychologist's report setting forth the reasons for the physician's, physician assistant's, certified nurse practitioner's, clinical nurse specialist-certified's, or licensed psychologist's
conclusion that the resident no longer meets the criteria for judicial treatment. If no report accompanies the petition because the resident is indigent or is unable for reasons satisfactory to the court to procure a report, the court shall appoint a physician, a physician assistant, a certified nurse practitioner, a clinical nurse specialist-certified, or a licensed psychologist to examine the resident, and the physician, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist shall furnish a report to the court. If the report concludes that the resident continues to meet the criteria for treatment, the court shall so notify the resident and shall dismiss the petition for discharge. If the report concludes otherwise, a hearing shall be held according to sections 517 to 522.

Sec. 700. As used in this chapter, unless the context requires otherwise:

(a) "Criminal abuse" means 1 or more of the following:

(i) An assault that is a violation or an attempt or conspiracy to commit a violation of sections 81 to 90 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 to 750.90 of the Michigan Compiled Laws. MCL 750.81 to 750.90. Criminal abuse does not include an assault or an assault and battery that is a violation of section 81 of Act No. 328 of the Public Acts of 1939, being section 750.81 of the Michigan Compiled Laws, the Michigan penal code, MCL 750.81, and that is committed by a recipient against another recipient.

(ii) A criminal homicide that is a violation or an attempt or conspiracy to commit a violation of section 316, 317, or 321 of Act No. 328 of the Public Acts of 1931, being sections 750.316,

(iii) Criminal sexual conduct that is a violation or an attempt or conspiracy to commit a violation of sections 520b to 520e or 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws. the Michigan penal code, MCL 750.520b to 750.520e and 750.520g.

(iv) Vulnerable adult abuse that is a violation or an attempt or conspiracy to commit a violation of section 145n of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.145n of the Michigan Compiled Laws. MCL 750.145n.

(v) Child abuse that is a violation or an attempt or conspiracy to commit a violation of section 136b of Act No. 328 of the Public Acts of 1931, being section 750.136b of the Michigan Compiled Laws. the Michigan penal code, MCL 750.136b.


(c) "Health care insurer" means an insurer authorized to provide health insurance in this state or a legal entity that is self-insured and provides health care benefits to its employees.

(d) "Health maintenance organization" means an organization licensed under part 210 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.21001 to 333.21098 of the Michigan Compiled Laws. that term as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(e) "Michigan penal code" means the Michigan penal code, 1931
(f) "Money" means any legal tender, note, draft, certificate of deposit, stock, bond, check, or credit card.


(h) "Person-centered planning" means a process for planning and supporting the individual receiving services that builds upon the individual's capacity to engage in activities that promote community life and that honors the individual's preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals as the individual desires or requires.

(i) "Privileged communication" means a communication made to a psychiatrist, physician assistant, certified nurse practitioner, clinical nurse specialist-certified, or licensed psychologist in connection with the examination, diagnosis, or treatment of a patient, or to another person while the other person is participating in the examination, diagnosis, or treatment or a communication made privileged under other applicable state or federal law.

(j) "Restraint" means the use of a physical device to restrict an individual's movement. Restraint does not include the use of a device primarily intended to provide anatomical support.

(k) "Seclusion" means the temporary placement of a recipient in a room, alone, where egress is prevented by any means.

(l) "Support plan" means a written plan that specifies the personal support services or any other supports that are to be
developed with and provided for a recipient.

(m) "Treatment plan" means a written plan that specifies the goal-oriented treatment or training services, including rehabilitation or habilitation services, that are to be developed with and provided for a recipient.

Sec. 740. (1) A resident shall not be placed in physical restraint except in the circumstances and under the conditions set forth in this section or in other law.

(2) A resident may be restrained only as provided in subsection (3), (4), or (5) after less restrictive interventions have been considered, and only if restraint is essential in order to prevent the resident from physically harming himself, herself, or others, or in order to prevent him or her from causing substantial property damage. Consideration of less restrictive measures shall be documented in the medical record. If restraint is essential in order to prevent the resident from physically harming himself, herself, or others, the resident may be physically held with no more force than is necessary to limit the resident's movement, until a restraint may be applied.

(3) A resident may be temporarily restrained for a maximum of 30 minutes without an order or authorization in an emergency. Immediately after imposition of the temporary restraint, a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified shall be contacted. If, after being contacted, the physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified does not order or authorize the restraint, the restraint shall be removed.

(4) A resident may be restrained prior to examination pursuant according to an authorization by a physician, physician
assistant, certified nurse practitioner, or clinical nurse specialist-certified. An authorized restraint may continue only until a physician, a physician assistant, a certified nurse practitioner, a clinical nurse specialist-certified, or a registered professional nurse who has been trained in accordance with the requirements under 42 CFR 482.13(f) can personally examine the resident or for 2 hours, whichever is less. If it is not possible for the physician, the physician assistant, the certified nurse practitioner, the clinical nurse specialist-certified, or the registered professional nurse who has been trained in accordance with the requirements under 42 CFR 482.13(f) to examine the resident within 2 hours, a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified may reauthorize the restraint for another 2 hours. Authorized restraint may not continue for more than 4 hours.

(5) A resident may be restrained pursuant according to an order by a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified made after personal examination of the resident. An ordered restraint shall continue only for that period of time specified in the order or for 8 hours, whichever is less.

(6) A restrained resident shall continue to receive food, shall be kept in sanitary conditions, shall be clothed or otherwise covered, shall be given access to toilet facilities, and shall be given the opportunity to sit or lie down.

(7) Restraints shall be removed every 2 hours for not less than 15 minutes unless medically contraindicated or whenever they are no longer essential in order to achieve the objective which justified their initial application.
(8) Each instance of restraint requires full justification for its application, and the results of each periodic examination shall be placed promptly in the record of the resident.

(9) If a resident is restrained repeatedly, the resident's individual plan of services shall be reviewed and modified to facilitate the reduction of the use of restraints.

Sec. 742. (1) Seclusion shall be used only in a hospital, a center, or a child caring institution licensed under 1973 PA 116, MCL 722.111 to 722.128. A resident placed in a hospital or center shall not be kept in seclusion except in the circumstances and under the conditions set forth in this section.

(2) A minor placed in a child caring institution shall not be placed or kept in seclusion except as provided in 1973 PA 116, MCL 722.111 to 722.128, or rules promulgated under that act.

(3) A resident may be placed in seclusion only as provided under subsection (4), (5), or (6) and only if it is essential in order to prevent the resident from physically harming others, or in order to prevent the resident from causing substantial property damage.

(4) Seclusion may be temporarily employed for a maximum of 30 minutes in an emergency without an authorization or an order. Immediately after the resident is placed in temporary seclusion, a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified shall be contacted. If, after being contacted, the physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified does not authorize or order the seclusion, the resident shall be removed from seclusion.

(5) A resident may be placed in seclusion under an
authorization by a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified. Authorized seclusion shall continue only until a physician, a physician assistant, a certified nurse practitioner, a clinical nurse specialist-certified, or a registered professional nurse who has been trained in accordance with the requirements under 42 CFR 482.13(f) can personally examine the resident or for 1 hour, whichever is less.

(6) A resident may be placed in seclusion under an order of a physician, physician assistant, certified nurse practitioner, or clinical nurse specialist-certified made after personal examination of the resident to determine if the ordered seclusion poses an undue health risk to the resident. Ordered seclusion shall continue only for that period of time specified in the order or for 8 hours, whichever is less. An order for a minor shall continue for a maximum of 4 hours.

(7) A secluded resident shall continue to receive food, shall remain clothed unless his or her actions make it impractical or inadvisable, shall be kept in sanitary conditions, and shall be provided a bed or similar piece of furniture unless his or her actions make it impractical or inadvisable.

(8) A secluded resident shall be released from seclusion whenever the circumstance that justified its use ceases to exist.

(9) Each instance of seclusion requires full justification for its use, and the results of each periodic examination shall be placed promptly in the record of the resident.

(10) If a resident is secluded repeatedly, the resident's individual plan of services must be reviewed and modified to facilitate the reduced use of seclusion.
Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.