

HOUSE BILL NO. 4617

May 23, 2023, Introduced by Reps. Hoskins, Brabec, Pohutsky, Morse, Arbit, Wilson, Rheingans, Rogers, Paiz, Martus, Steckloff, Price, Wegela, Miller, Hood, Byrnes, Tsernoglou, Hope, McFall, Stone, Andrews, Brixie, MacDonell, Grant, Snyder, Skaggs, Conlin, Haadsma, Tyrone Carter, Puri, Scott, O'Neal, Dievendorf, Hill, Witwer, Weiss, Koleszar, Edwards and Morgan and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 100a (MCL 330.1100a), as amended by 2020 PA
402.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (2) "Abuse" means nonaccidental physical or emotional harm to
5 a recipient, or sexual contact with or sexual penetration of a

1 recipient as those terms are defined in section 520a of the
2 Michigan penal code, 1931 PA 328, MCL 750.520a, that is committed
3 by an employee or volunteer of the department, a community mental
4 health services program, or a licensed hospital or by an employee
5 or volunteer of a service provider under contract with the
6 department, community mental health services program, or licensed
7 hospital.

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

- 10 (a) Communication.
- 11 (b) Self-care.
- 12 (c) Home living.
- 13 (d) Social skills.
- 14 (e) Community use.
- 15 (f) Self-direction.
- 16 (g) Health and safety.
- 17 (h) Functional academics.
- 18 (i) Leisure.
- 19 (j) Work.

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

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

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

1 (7) "Approved service program" means a substance use disorder
2 services program licensed under part 62 of the public health code,
3 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use
4 disorder treatment and rehabilitation services by the department-
5 designated community mental health entity and approved by the
6 federal government to deliver a service or combination of services
7 for the treatment of incapacitated individuals.

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

1 in an assisted outpatient treatment plan shall be provided under
2 the supervision of a psychiatrist.

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

5 (10) "Board of commissioners" means a county board of
6 commissioners.

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

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

13 (13) "Child abuse" and "child neglect" mean those terms as
14 defined in section 2 of the child protection law, 1975 PA 238, MCL
15 722.622.

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

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

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

29 (c) A psychiatrist who has education and clinical experience

1 in the evaluation and treatment of children or adolescents with
2 serious emotional disturbance who is approved by the director.

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

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

12 (17) "Community mental health organization" means a community
13 mental health services program that is organized under the urban
14 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
15 124.512.

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

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

28 (20) "Conversion therapy" means any practice or treatment by a
29 mental health professional that seeks to change an individual's

1 sexual orientation or gender identity, including, but not limited
 2 to, efforts to change behavior or gender expression or to reduce or
 3 eliminate sexual or romantic attractions or feelings toward an
 4 individual of the same gender. Conversion therapy does not include
 5 counseling that provides assistance to an individual undergoing a
 6 gender transition, counseling that provides acceptance, support, or
 7 understanding of an individual or facilitates an individual's
 8 coping, social support, or identity exploration and development,
 9 including sexual orientation-neutral intervention to prevent or
 10 address unlawful conduct or unsafe sexual practices, as long as the
 11 counseling does not seek to change an individual's sexual
 12 orientation or gender identity. **As used in this subsection:**

13 (a) "Gender identity" means "gender identity or expression" as
 14 that term is defined in section 103 of the Elliott-Larsen civil
 15 rights act, 1976 PA 453, MCL 37.2103.

16 (b) "Sexual orientation" means that term as defined in section
 17 103 of the Elliot-Larsen civil rights act, 1976 PA 453, MCL
 18 37.2103.

19 (21) ~~(20)~~—"County community mental health agency" means an
 20 official county or multicounty agency created under section 210
 21 that operates as a community mental health services program and
 22 that has not elected to become a community mental health authority
 23 or a community mental health organization.

24 (22) ~~(21)~~—"Crisis stabilization unit" means a prescreening
 25 unit established under section 409 or a facility certified under
 26 chapter 9A that provides unscheduled clinical services designed to
 27 prevent or ameliorate a behavioral health crisis or reduce acute
 28 symptoms on an immediate, intensive, and time-limited basis in
 29 response to a crisis situation.

1 **(23)** ~~(22)~~—"Department" means the department of health and
2 human services.

3 **(24)** ~~(23)~~—"Department-designated community mental health
4 entity" means the community mental health authority, community
5 mental health organization, community mental health services
6 program, county community mental health agency, or community mental
7 health regional entity designated by the department to represent a
8 region of community mental health authorities, community mental
9 health organizations, community mental health services programs, or
10 county community mental health agencies.

11 **(25)** ~~(24)~~—"Dependent living setting" means all of the
12 following:

13 (a) An adult foster care facility.

14 (b) A nursing home licensed under part 217 of the public
15 health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

16 (c) A home for the aged licensed under part 213 of the public
17 health code, 1978 PA 368, MCL 333.21301 to 333.21335.

18 **(26)** ~~(25)~~—"Designated representative" means any of the
19 following:

20 (a) A registered nurse or licensed practical nurse licensed or
21 otherwise authorized under part 172 of the public health code, 1978
22 PA 368, MCL 333.17201 to 333.17242.

23 (b) A paramedic licensed or otherwise authorized under part
24 209 of the public health code, 1978 PA 368, MCL 333.20901 to
25 333.20979.

26 (c) A physician's assistant licensed or otherwise authorized
27 under part 170 or 175 of the public health code, 1978 PA 368, MCL
28 333.17001 to 333.17097 and 333.17501 to 333.17556.

29 (d) An individual qualified by education, training, and

1 experience who performs acts, tasks, or functions under the
2 supervision of a physician.

3 **(27)** ~~(26)~~—"Developmental disability" means either of the
4 following:

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

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

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

11 (iii) Is likely to continue indefinitely.

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

14 (A) Self-care.

15 (B) Receptive and expressive language.

16 (C) Learning.

17 (D) Mobility.

18 (E) Self-direction.

19 (F) Capacity for independent living.

20 (G) Economic self-sufficiency.

21 (v) Reflects the individual's need for a combination and
22 sequence of special, interdisciplinary, or generic care, treatment,
23 or other services that are of lifelong or extended duration and are
24 individually planned and coordinated.

25 (b) If applied to a minor from birth to 5 years of age, a
26 substantial developmental delay or a specific congenital or
27 acquired condition with a high probability of resulting in
28 developmental disability as defined in subdivision (a) if services
29 are not provided.

1 (28) ~~(27)~~—"Director" means the director of the department or
2 his or her designee.

3 (29) ~~(28)~~—"Discharge" means an absolute, unconditional release
4 of an individual from a facility by action of the facility or a
5 court.

6 (30) ~~(29)~~—"Eligible minor" means an individual less than 18
7 years of age who is recommended in the written report of a
8 multidisciplinary team under rules promulgated by the department of
9 education to be classified as 1 of the following:

10 (a) Severely mentally impaired.

11 (b) Severely multiply impaired.

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

16 (31) ~~(30)~~—"Emergency situation" means a situation in which an
17 individual is experiencing a serious mental illness or a
18 developmental disability, or a minor is experiencing a serious
19 emotional disturbance, and 1 of the following applies:

20 (a) The individual can reasonably be expected within the near
21 future to physically injure himself, herself, or another
22 individual, either intentionally or unintentionally.

23 (b) The individual is unable to provide himself or herself
24 food, clothing, or shelter or to attend to basic physical
25 activities such as eating, toileting, bathing, grooming, dressing,
26 or ambulating, and this inability may lead in the near future to
27 harm to the individual or to another individual.

28 (c) The individual has mental illness that has impaired his or
29 her judgment so that the individual is unable to understand his or

1 her need for treatment and presents a risk of harm.

2 (32) ~~(31)~~ "Executive director" means an individual appointed
3 under section 226 to direct a community mental health services
4 program or his or her designee.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect
8 unless Senate Bill No. _____ or House Bill No. 4616 (request no.
9 01464'23) of the 102nd Legislature is enacted into law.