

HOUSE BILL NO. 4534

June 03, 2025, Introduced by Reps. Green, Hope, Price, Brixie, Mentzer, Coffia, Weiss, Morgan, Rheingans, Bierlein, Martus, MacDonell, Young, Tsernoglou, Hoskins, Glanville, Arbit, Longjohn, Herzberg, B. Carter, Liberati, Byrnes, T. Carter and Alexander and referred to Committee on Judiciary.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 461 (MCL 330.1461), as amended by 2018 PA 593,
and by adding section 1021 and chapter 10A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 461. (1) ~~An~~**For a petition filed under section 434(1) to**
2 **(6), an** individual may not be found to require treatment unless at
3 least 1 physician or licensed psychologist who has personally
4 examined that individual testifies in person or by written

1 deposition at the hearing.

2 (2) For a petition filed under section 434(7), ~~that does not~~
3 ~~seek hospitalization before the hearing,~~ an individual may not be
4 found to require treatment ~~unless a psychiatrist who has personally~~
5 ~~examined that individual testifies. A psychiatrist's testimony is~~
6 ~~not necessary if a psychiatrist signs the petition. If a~~
7 ~~psychiatrist signs the petition, at least 1 physician or licensed~~
8 ~~psychologist who has personally examined that individual must~~
9 ~~testify.~~ **if a physician, psychologist, or qualified health**
10 **professional has personally examined the individual and testifies**
11 **that the individual requires treatment.** The requirement for
12 testimony may be waived by the subject of the petition. ~~If the~~
13 ~~testimony given in person is waived, a clinical certificate~~
14 ~~completed by a physician, licensed psychologist, or psychiatrist~~
15 ~~must be presented to the court before or at the initial hearing.~~

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

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

28 (5) **As used in this section, "qualified health professional"**
29 **means a psychiatric nurse practitioner or physician assistant**

1 working under the supervision of a psychiatrist.

2 Sec. 1021. Sections 1022 to 1044 do not apply to an individual
3 charged with a misdemeanor offense or an offense against a health
4 professional or a medical volunteer under section 81d of the
5 Michigan penal code, 1931 PA 328, MCL 750.81d, who has been
6 diverted to assisted outpatient treatment under chapter 10A.

7 CHAPTER 10A

8 Sec. 1075. (1) At the time a misdemeanor offense or an offense
9 against a health professional or a medical volunteer under section
10 81d of the Michigan penal code, 1931 PA 328, MCL 750.81d, is
11 charged, or at any later time before trial, the prosecuting
12 attorney, the defendant, or defense counsel may bring a motion
13 seeking an assessment by a physician, psychologist, or qualified
14 health professional to determine if the defendant meets the
15 criteria for diversion to assisted outpatient treatment under this
16 chapter.

17 (2) The defendant or defense counsel may oppose a motion made
18 by the prosecuting attorney under subsection (1). The prosecuting
19 attorney may oppose a motion made by the defendant or defense
20 counsel under subsection (1).

21 (3) If a motion under subsection (1) is opposed by the
22 prosecuting attorney, defendant, or defense counsel, the defendant
23 must not be diverted into assisted outpatient treatment and the
24 competency provisions of chapter 10 must be followed, as
25 applicable.

26 (4) If, upon assessment under subsection (1), it is determined
27 that the defendant meets the criteria for assisted outpatient
28 treatment, the prosecuting attorney shall file a petition as
29 provided for a person requiring treatment under section 434(7).

1 (5) If a petition is filed under subsection (4), the judge of
2 the district court may request assignment from the state court
3 administrative office as a probate judge to hear and determine the
4 petition or direct the prosecuting attorney to file the petition in
5 the probate court in the defendant's county of residence. If the
6 petition is filed in the probate court as provided under this
7 subsection, the probate court shall hear and determine the
8 petition.

9 (6) If, at the hearing on the petition for assisted outpatient
10 treatment, the prosecuting attorney or the defendant objects to
11 entry of the order for assisted outpatient treatment, the petition
12 must be dismissed and the procedures under sections 1022 to 1044
13 apply to the case.

14 (7) If, at the hearing on the petition for assisted outpatient
15 treatment, there is no objection to entry of the order for assisted
16 outpatient treatment, the court shall enter the order.

17 (8) As used in this section:

18 (a) "Person requiring treatment" means that term as defined in
19 section 401.

20 (b) "Qualified health professional" means that term as defined
21 in section 461.

22 Sec. 1076. (1) If diversion from criminal prosecution and into
23 assisted outpatient treatment is ordered after a hearing on a
24 petition under section 1075, the court that heard the petition
25 shall enter an order providing for assisted outpatient treatment
26 for not more than 90 days for a misdemeanor and not more than 180
27 days for a serious misdemeanor.

28 (2) If a defendant fails to comply with the terms of the
29 assisted outpatient treatment order, the provisions under section

1 475 apply to the case. If a criminal prosecution continues during
2 the 180-day period provided for in this section, no bond conditions
3 may be set other than that the defendant will not violate any no-
4 contact order, will appear as required, will not leave the state
5 without permission of the court, and will not commit any crime
6 while released. Compliance with a bond or bond conditions is
7 separate from and not to be included in the court's determination
8 of whether the defendant has complied with the assisted outpatient
9 treatment order.

10 (3) The community treatment program has the sole discretion to
11 make decisions related to the assessment of; treatment planning
12 for; type, scope, frequency, intensity, and duration of treatment
13 for; and discharge from treatment of a defendant under an assisted
14 outpatient treatment order. If the designated community treatment
15 program does not communicate with the court as to the treatment of
16 the defendant under the assisted outpatient treatment order, the
17 court shall conduct a hearing relative to the treatment being
18 provided by the community treatment program.

19 Sec. 1077. (1) The charges against a defendant receiving
20 assisted outpatient treatment must remain pending until dismissed
21 by the district court for purposes of enforcing conditions of
22 release. The conditions of release for a defendant receiving
23 assisted outpatient treatment must be separate from compliance with
24 the treatment plan. Compliance with the assisted outpatient
25 treatment must not be a condition of release.

26 (2) All matters that concern noncompliance with the assisted
27 outpatient treatment plan must be addressed in a civil proceeding
28 under section 475.

29 (3) Except as otherwise provided in this subsection, a pending

1 misdemeanor charge must be dismissed by the district court 90 days
2 after the entry of the assisted outpatient treatment order. If the
3 defendant was charged with a serious misdemeanor or an offense
4 against a health professional or a medical volunteer under section
5 81d of the Michigan penal code, 1931 PA 328, MCL 750.81d, the
6 charge must be dismissed 180 days after the entry of the assisted
7 outpatient treatment order.

8 (4) As used in this section, "serious misdemeanor" means that
9 term as defined in section 61 of the William Van Regenmorter crime
10 victim's rights act, 1985 PA 87, MCL 780.811.

11 Sec. 1078. Upon the termination of the assisted outpatient
12 treatment, the provider of the assisted outpatient treatment shall
13 notify the prosecutor, district court, and probate court, as
14 applicable, that the assisted outpatient treatment has been
15 terminated.

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

18 Enacting section 2. This amendatory act does not take effect
19 unless all of the following bills of the 103rd Legislature are
20 enacted into law:

21 (a) House Bill No. 4532 (request no. H00705'25).

22 (b) House Bill No. 4533(request no. H00705'25 a).

23 (c) House Bill No. 4535 (request no. H00707'25).