



HOUSE BILL No. 4815

May 10, 1995, Introduced by Reps. Hammerstrom, Jamian, Horton, Brackenridge and Galloway and referred to the Committee on Mental Health.

A bill to amend sections 100, 110, 116, 124, 126, 135, 141, 142, 152, 153, 156, 157, 158, 159, 161, 202, 204, 206, 208, 209a, 209b, 209d, 210, 212, 216, 218, 219, 220, 222, 224, 226, 226a, 228, 230, 232, 234, 236, 238, 240, 242, 244, 245, 302, 306, 307, 308, 309, 310, 312, 314, 316, 320, 400, 401, 403, 406, 407, 408, 411, 415, 416, 420, 423, 425, 426, 427, 427a, 428, 429, 430, 431, 434, 435, 436, 438, 448, 449, 451, 452, 453, 454, 455, 461, 462, 463, 464, 468, 469, 472, 473, 476, 479, 482, 483, 484, 485, 485a, 490, 497, 498a, 498b, 498c, 498d, 498e, 498f, 498h, 498k, 498l, 498n, 498o, 498p, 500, 502, 503, 505, 508, 509, 510, 511, 512, 515, 516, 517, 518, 519, 520, 521, 522, 525, 527, 528, 531, 536, 537, 540, 541, 600, 602, 607, 612, 620, 623, 628, 637, 642, 700, 702, 704, 706, 707, 708, 710, 712, 714, 715, 716, 718, 722, 723, 723a, 723b, 723c, 724, 726, 728, 730, 732, 734, 736, 740, 742, 744, 748, 750, 752, 754, 800, 802, 804, 806, 808, 810, 812, 814,

818, 820, 822, 824, 828, 830, 832, 834, 836, 838, 844, 946, and 1001b of Act No. 258 of the Public Acts of 1974, entitled as amended

"Mental health code,"

section 100 as amended by Act No. 124 of the Public Acts of 1990, section 116 as amended by Act No. 29 of the Public Acts of 1990, sections 135 and 141 as amended by Act No. 137 of the Public Acts of 1994, section 153 as added by Act No. 256 of the Public Acts of 1986, sections 156, 157, 158, 159, and 161 as added and section 308 as amended by Act No. 249 of the Public Acts of 1983, sections 209a and 415 as amended and sections 498a, 498c, 498d, 498e, 498f, 498h, 498l, 498n, 498o, 498p, and 707 as added by Act No. 186 of the Public Acts of 1984, sections 209b and 209d as added by Act No. 409 of the Public Acts of 1980, sections 212 and 302 as amended and section 219 as added by Act No. 265 of the Public Acts of 1986, section 226 as amended by Act No. 149 of the Public Acts of 1986, sections 226a and 309 as amended by Act No. 107 of the Public Acts of 1984, section 244 as amended and section 245 as added by Act No. 289 of the Public Acts of 1986, section 307 as added by Act No. 253 of the Public Acts of 1993, section 310 as amended by Act No. 423 of the Public Acts of 1980, section 400 as amended by Act No. 297 of the Public Acts of 1986, sections 408, 498b, and 498k as amended by Act No. 155 of the Public Acts of 1988, sections 420, 423, 425, 426, 428, 429, 430, 435, 438, 461, 463, and 485 as amended by Act No. 402 of the Public Acts of 1982, sections 434, 452, 454, and 455 as amended by Act No. 118 of the Public Acts of 1986, section 448 as amended

by Act No. 178 of the Public Acts of 1982, sections 468, 469, 472, 482, 483, 484, and 485a as amended by Act No. 117 of the Public Acts of 1986, section 500 as amended by Act No. 76 of the Public Acts of 1987, section 723 as amended by Act No. 32 of the Public Acts of 1988, sections 723a, 723b, and 723c as added by Act No. 224 of the Public Acts of 1986, section 748 as amended by Act No. 167 of the Public Acts of 1990, section 750 as amended by Act No. 123 of the Public Acts of 1989, section 818 as amended by Act No. 91 of the Public Acts of 1981, section 946 as amended by Act No. 259 of the Public Acts of 1994, and section 1001b as amended by Act No. 252 of the Public Acts of 1993, being sections 330.1100, 330.1110, 330.1116, 330.1124, 330.1126, 330.1135, 330.1141, 330.1142, 330.1152, 330.1153, 330.1156, 330.1157, 330.1158, 330.1159, 330.1161, 330.1202, 330.1204, 330.1206, 330.1208, 330.1209a, 330.1209b, 330.1209d, 330.1210, 330.1212, 330.1216, 330.1218, 330.1219, 330.1220, 330.1222, 330.1224, 330.1226, 330.1226a, 330.1228, 330.1230, 330.1232, 330.1234, 330.1236, 330.1238, 330.1240, 330.1242, 330.1244, 330.1245, 330.1302, 330.1306, 330.1307, 330.1308, 330.1309, 330.1310, 330.1312, 330.1314, 330.1316, 330.1320, 330.1400, 330.1401, 330.1403, 330.1406, 330.1407, 330.1408, 330.1411, 330.1415, 330.1416, 330.1420, 330.1423, 330.1425, 330.1426, 330.1427, 330.1427a, 330.1428, 330.1429, 330.1430, 330.1431, 330.1434, 330.1435, 330.1436, 330.1438, 330.1448, 330.1449, 330.1451, 330.1452, 330.1453, 330.1454, 330.1455, 330.1461, 330.1462, 330.1463, 330.1464, 330.1468, 330.1469, 330.1472, 330.1473, 330.1476, 330.1479, 330.1482, 330.1483, 330.1484, 330.1485,

330.1485a, 330.1490, 330.1497, 330.1498a, 330.1498b, 330.1498c, 330.1498d, 330.1498e, 330.1498f, 330.1498h, 330.1498k, 330.1498l, 330.1498n, 330.1498o, 330.1498p, 330.1500, 330.1502, 330.1503, 330.1505, 330.1508, 330.1509, 330.1510, 330.1511, 330.1512, 330.1515, 330.1516, 330.1517, 330.1518, 330.1519, 330.1520, 330.1521, 330.1522, 330.1525, 330.1527, 330.1528, 330.1531, 330.1536, 330.1537, 330.1540, 330.1541, 330.1600, 330.1602, 330.1607, 330.1612, 330.1620, 330.1623, 330.1628, 330.1637, 330.1642, 330.1700, 330.1702, 330.1704, 330.1706, 330.1707, 330.1708, 330.1710, 330.1712, 330.1714, 330.1715, 330.1716, 330.1718, 330.1722, 330.1723, 330.1723a, 330.1723b, 330.1723c, 330.1724, 330.1726, 330.1728, 330.1730, 330.1732, 330.1734, 330.1736, 330.1740, 330.1742, 330.1744, 330.1748, 330.1750, 330.1752, 330.1754, 330.1800, 330.1802, 330.1804, 330.1806, 330.1808, 330.1810, 330.1812, 330.1814, 330.1818, 330.1820, 330.1822, 330.1824, 330.1828, 330.1830, 330.1832, 330.1834, 330.1836, 330.1838, 330.1844, 330.1946, and 330.2001b of the Michigan Compiled Laws; to add sections 100a, 100b, 100c, 100d, 204a, 205, 207, 227, 232a, 241, 409, 422, 717, 753, 755, 756, 757, 758, 813, 817, 819, and 919 and chapter 7a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 100, 110, 116, 124, 126, 135, 141, 142,
2 152, 153, 156, 157, 158, 159, 161, 202, 204, 206, 208, 209a,
3 209b, 209d, 210, 212, 216, 218, 219, 220, 222, 224, 226, 226a,
4 228, 230, 232, 234, 236, 238, 240, 242, 244, 245, 302, 306, 307,
5 308, 309, 310, 312, 314, 316, 320, 400, 401, 403, 406, 407, 408,

1 411, 415, 416, 420, 423, 425, 426, 427, 427a, 428, 429, 430, 431,
2 434, 435, 436, 438, 448, 449, 451, 452, 453, 454, 455, 461, 462,
3 463, 464, 468, 469, 472, 473, 476, 479, 482, 483, 484, 485, 485a,
4 490, 497, 498a, 498b, 498c, 498d, 498e, 498f, 498h, 498k, 498l,
5 498n, 498o, 498p, 500, 502, 503, 505, 508, 509, 510, 511, 512,
6 515, 516, 517, 518, 519, 520, 521, 522, 525, 527, 528, 531, 536,
7 537, 540, 541, 600, 602, 607, 612, 620, 623, 628, 637, 642, 700,
8 702, 704, 706, 707, 708, 710, 712, 714, 715, 716, 718, 722, 723,
9 723a, 723b, 723c, 724, 726, 728, 730, 732, 734, 736, 740, 742,
10 744, 748, 750, 752, 754, 800, 802, 804, 806, 808, 810, 812, 814,
11 818, 820, 822, 824, 828, 830, 832, 834, 836, 838, 844, 946, and
12 1001b of Act No. 258 of the Public Acts of 1974, section 100 as
13 amended by Act No. 124 of the Public Acts of 1990, section 116 as
14 amended by Act No. 29 of the Public Acts of 1990, sections 135
15 and 141 as amended by Act No. 137 of the Public Acts of 1994,
16 section 153 as added by Act No. 256 of the Public Acts of 1986,
17 sections 156, 157, 158, 159, and 161 as added and section 308 as
18 amended by Act No. 249 of the Public Acts of 1983, sections 209a
19 and 415 as amended and sections 498a, 498c, 498d, 498e, 498f,
20 498h, 498l, 498n, 498o, 498p, and 707 as added by Act No. 186 of
21 the Public Acts of 1984, sections 209b and 209d as added by Act
22 No. 409 of the Public Acts of 1980, sections 212 and 302 as
23 amended and section 219 as added by Act No. 265 of the Public
24 Acts of 1986, section 226 as amended by Act No. 149 of the Public
25 Acts of 1986, sections 226a and 309 as amended by Act No. 107 of
26 the Public Acts of 1984, section 244 as amended and section 245
27 as added by Act No. 289 of the Public Acts of 1986, section 307

1 as added by Act No. 253 of the Public Acts of 1993, section 310
 2 as amended by Act No. 423 of the Public Acts of 1980, section 400
 3 as amended by Act No. 297 of the Public Acts of 1986,
 4 sections 408, 498b, and 498k as amended by Act No. 155 of the
 5 Public Acts of 1988, sections 420, 423, 425, 426, 428, 429, 430,
 6 435, 438, 461, 463, and 485 as amended by Act No. 402 of the
 7 Public Acts of 1982, sections 434, 452, 454, and 455 as amended
 8 by Act No. 118 of the Public Acts of 1986, section 448 as amended
 9 by Act No. 178 of the Public Acts of 1982, sections 468, 469,
 10 472, 482, 483, 484, and 485a as amended by Act No. 117 of the
 11 Public Acts of 1986, section 500 as amended by Act No. 76 of the
 12 Public Acts of 1987, section 723 as amended by Act No. 32 of the
 13 Public Acts of 1988, sections 723a, 723b, and 723c as added by
 14 Act No. 224 of the Public Acts of 1986, section 748 as amended by
 15 Act No. 167 of the Public Acts of 1990, section 750 as amended by
 16 Act No. 123 of the Public Acts of 1989, section 818 as amended by
 17 Act No. 91 of the Public Acts of 1981, section 946 as amended by
 18 Act No. 259 of the Public Acts of 1994, and section 1001b as
 19 amended by Act No. 252 of the Public Acts of 1993, being sections
 20 330.1100, 330.1110, 330.1116, 330.1124, 330.1126, 330.1135,
 21 330.1141, 330.1142, 330.1152, 330.1153, 330.1156, 330.1157,
 22 330.1158, 330.1159, 330.1161, 330.1202, 330.1204, 330.1206,
 23 330.1208, 330.1209a, 330.1209b, 330.1209d, 330.1210, 330.1212,
 24 330.1216, 330.1218, 330.1219, 330.1220, 330.1222, 330.1224,
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 26 330.1236, 330.1238, 330.1240, 330.1242, 330.1244, 330.1245,
 27 330.1302, 330.1306, 330.1307, 330.1308, 330.1309, 330.1310,

1 330.1312, 330.1314, 330.1316, 330.1320, 330.1400, 330.1401,
2 330.1403, 330.1406, 330.1407, 330.1408, 330.1411, 330.1415,
3 330.1416, 330.1420, 330.1423, 330.1425, 330.1426, 330.1427,
4 330.1427a, 330.1428, 330.1429, 330.1430, 330.1431, 330.1434,
5 330.1435, 330.1436, 330.1438, 330.1448, 330.1449, 330.1451,
6 330.1452, 330.1453, 330.1454, 330.1455, 330.1461, 330.1462,
7 330.1463, 330.1464, 330.1468, 330.1469, 330.1472, 330.1473,
8 330.1476, 330.1479, 330.1482, 330.1483, 330.1484, 330.1485,
9 330.1485a, 330.1490, 330.1497, 330.1498a, 330.1498b, 330.1498c,
10 330.1498d, 330.1498e, 330.1498f, 330.1498h, 330.1498k, 330.1498l,
11 330.1498n, 330.1498o, 330.1498p, 330.1500, 330.1502, 330.1503,
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16 330.1607, 330.1612, 330.1620, 330.1623, 330.1628, 330.1637,
17 330.1642, 330.1700, 330.1702, 330.1704, 330.1706, 330.1707,
18 330.1708, 330.1710, 330.1712, 330.1714, 330.1715, 330.1716,
19 330.1718, 330.1722, 330.1723, 330.1723a, 330.1723b, 330.1723c,
20 330.1724, 330.1726, 330.1728, 330.1730, 330.1732, 330.1734,
21 330.1736, 330.1740, 330.1742, 330.1744, 330.1748, 330.1750,
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24 330.1822, 330.1824, 330.1828, 330.1830, 330.1832, 330.1834,
25 330.1836, 330.1838, 330.1844, 330.1946, and 330.2001b of the
26 Michigan Compiled Laws, are amended and sections 100a, 100b,
27 100c, 100d, 204a, 205, 207, 227, 232a, 241, 409, 422, 717, 753,

1 755, 756, 757, 758, 813, 817, 819, and 919 and chapter 7a are
2 added to read as follows:

3 Sec. 100. ~~As used in this chapter, unless the context~~
4 ~~requires otherwise:~~

5 ~~(a) "Department" means the department of mental health.~~

6 ~~(b) "Director" means the director of the department of~~
7 ~~mental health.~~

8 ~~(c) "Office" means the office of multicultural services cre-~~
9 ~~ated in section 162.~~

10 ~~(d) "Multicultural services" means specialized mental health~~
11 ~~services for multicultural populations such as African Americans,~~
12 ~~Hispanics, Native Americans, Asian and Pacific Islanders, and~~
13 ~~Arab/Chaldean Americans. THE DEFINITIONS IN SECTIONS 100A TO~~
14 ~~100D APPLY TO THIS ACT UNLESS THE CONTEXT REQUIRES OTHERWISE.~~
15 ~~OTHER DEFINITIONS APPLICABLE TO SPECIFIC CHAPTERS ARE FOUND IN~~
16 ~~THOSE CHAPTERS.~~

17 SEC. 100A. (1) "ABUSE" MEANS NONACCIDENTAL PHYSICAL OR EMO-
18 TIONAL HARM TO A RECIPIENT, OR SEXUAL CONTACT WITH OR SEXUAL PEN-
19 ETRATION OF A RECIPIENT AS THOSE TERMS ARE DEFINED IN SECTION
20 520A OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS
21 OF 1931, BEING SECTION 750.520A OF THE MICHIGAN COMPILED LAWS,
22 THAT IS COMMITTED BY AN EMPLOYEE OR VOLUNTEER OF THE DEPARTMENT,
23 A COMMUNITY MENTAL HEALTH SERVICES PROGRAM, OR A LICENSED HOSPI-
24 TAL OR AN EMPLOYEE OR VOLUNTEER OF A SERVICE PROVIDER UNDER CON-
25 TRACT WITH THE DEPARTMENT, COMMUNITY MENTAL HEALTH SERVICES PRO-
26 GRAM, OR LICENSED HOSPITAL.

1 (2) "ADAPTIVE SKILLS" MEANS SKILLS IN 1 OR MORE OF THE
2 FOLLOWING AREAS:

3 (A) COMMUNICATION.

4 (B) SELF-CARE.

5 (C) HOME LIVING.

6 (D) SOCIAL SKILLS.

7 (E) COMMUNITY USE.

8 (F) SELF-DIRECTION.

9 (G) HEALTH AND SAFETY.

10 (H) FUNCTIONAL ACADEMICS.

11 (I) LEISURE.

12 (J) WORK.

13 (3) "ADULT FOSTER CARE FACILITY" MEANS AN ADULT FOSTER CARE
14 FACILITY LICENSED UNDER THE ADULT FOSTER CARE FACILITY LICENSING
15 ACT, ACT NO. 218 OF THE PUBLIC ACTS OF 1979, BEING SECTIONS
16 400.701 TO 400.737 OF THE MICHIGAN COMPILED LAWS.

17 (4) "APPLICANT" MEANS AN INDIVIDUAL OR HIS OR HER LEGAL REP-
18 RESENTATIVE WHO MAKES A REQUEST FOR MENTAL HEALTH SERVICES.

19 (5) "BOARD" MEANS THE GOVERNING BODY OF A COMMUNITY MENTAL
20 HEALTH SERVICES PROGRAM.

21 (6) "BOARD OF COMMISSIONERS" MEANS A COUNTY BOARD OF
22 COMMISSIONERS.

23 (7) "CENTER" MEANS A FACILITY OPERATED BY THE DEPARTMENT TO
24 ADMIT INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND PROVIDE
25 HABILITATION AND TREATMENT SERVICES.

26 (8) "CERTIFICATION" MEANS FORMAL APPROVAL OF A PROGRAM BY
27 THE DEPARTMENT.

(9) "CHILD PSYCHIATRIST" MEANS EITHER OF THE FOLLOWING:

(A) A PSYCHIATRIST WHO SPECIALIZES IN THE EVALUATION AND TREATMENT OF MINORS AND IS CERTIFIED OR ELIGIBLE FOR CERTIFICATION AS A CHILD PSYCHIATRIST BY THE AMERICAN BOARD OF PSYCHIATRY AND NEUROLOGY OR THE AMERICAN BOARD OF OSTEOPATHIC NEUROLOGY AND PSYCHIATRY AS APPROVED BY THE BOARD OF MEDICINE OR THE BOARD OF OSTEOPATHIC MEDICINE AND SURGERY CREATED UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.16101 TO 333.18838 OF THE MICHIGAN COMPILED LAWS.

(B) A PSYCHIATRIST EMPLOYED BY OR UNDER CONTRACT WITH THE DEPARTMENT OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM WITH EDUCATIONAL AND CLINICAL EXPERIENCE IN THE EVALUATION AND TREATMENT OF MINORS WHO IS APPROVED BY THE DIRECTOR.

(10) "CHILDREN'S DIAGNOSTIC AND TREATMENT SERVICE" MEANS A PROGRAM OPERATED BY OR UNDER CONTRACT WITH A COMMUNITY MENTAL HEALTH SERVICES PROGRAM, WHICH PROVIDES EXAMINATION, EVALUATION, AND REFERRALS FOR MINORS, INCLUDING EMERGENCY REFERRALS, WHICH PROVIDES OR FACILITATES TREATMENT FOR MINORS, AND WHICH HAS BEEN CERTIFIED BY THE DEPARTMENT.

(11) "COMMUNITY MENTAL HEALTH ENTITY" MEANS A SEPARATE GOVERNMENTAL LEGAL ENTITY CREATED UNDER SECTION 205 TO OPERATE A COMMUNITY MENTAL HEALTH SERVICES PROGRAM.

(12) "COMMUNITY MENTAL HEALTH ORGANIZATION" MEANS A COMMUNITY MENTAL HEALTH SERVICES PROGRAM THAT IS ORGANIZED UNDER THE URBAN COOPERATION ACT OF 1967, ACT NO. 7 OF THE PUBLIC ACTS OF THE EXTRA SESSION OF 1967, BEING SECTIONS 124.501 TO 124.512 OF THE MICHIGAN COMPILED LAWS.

1 (13) "COMMUNITY MENTAL HEALTH SERVICES PROGRAM" MEANS A
2 PROGRAM OPERATED UNDER CHAPTER 2 AS A COUNTY COMMUNITY MENTAL
3 HEALTH AGENCY, A COMMUNITY MENTAL HEALTH ENTITY, OR A COMMUNITY
4 MENTAL HEALTH ORGANIZATION.

5 (14) "CONSENT" MEANS A WRITTEN AGREEMENT EXECUTED BY A
6 RECIPIENT, A MINOR RECIPIENT'S PARENT, OR A RECIPIENT'S LEGAL
7 REPRESENTATIVE WITH AUTHORITY TO EXECUTE A CONSENT, OR A VERBAL
8 AGREEMENT OF A RECIPIENT THAT IS WITNESSED AND DOCUMENTED.

9 (15) "COUNTY COMMUNITY MENTAL HEALTH AGENCY" MEANS AN OFFI-
10 CIAL COUNTY OR MULTICOUNTY AGENCY CREATED UNDER SECTION 210 THAT
11 OPERATES AS A COMMUNITY MENTAL HEALTH SERVICES PROGRAM AND THAT
12 HAS NOT ELECTED TO BECOME A COMMUNITY MENTAL HEALTH ENTITY UNDER
13 SECTION 205 OR A COMMUNITY MENTAL HEALTH ORGANIZATION UNDER ACT
14 NO. 7 OF THE PUBLIC ACTS OF THE EXTRA SESSION OF 1967.

15 (16) "DEPENDENT LIVING SETTING" MEANS ALL OF THE FOLLOWING:

16 (A) AN ADULT FOSTER CARE FACILITY.

17 (B) A NURSING HOME LICENSED UNDER ARTICLE 17 OF THE PUBLIC
18 HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SEC-
19 TIONS 333.20101 TO 333.22260 OF THE MICHIGAN COMPILED LAWS.

20 (C) A HOME FOR THE AGED LICENSED UNDER ARTICLE 17 OF ACT NO.
21 368 OF THE PUBLIC ACTS OF 1978.

22 (17) "DEPARTMENT" MEANS THE DEPARTMENT OF MENTAL HEALTH.

23 (18) "DEVELOPMENTAL DISABILITY" MEANS EITHER OF THE
24 FOLLOWING:

25 (A) IF APPLIED TO AN INDIVIDUAL OLDER THAN 5 YEARS, A
26 SEVERE, CHRONIC CONDITION THAT MEETS ALL OF THE FOLLOWING
27 REQUIREMENTS:

1 (i) IS ATTRIBUTABLE TO A MENTAL IMPAIRMENT OTHER THAN A
2 SERIOUS MENTAL ILLNESS, SERIOUS EMOTIONAL DISTURBANCE, OR SUB-
3 STANCE ABUSE DISORDER OR TO A PHYSICAL IMPAIRMENT OR A COMBINA-
4 TION OF MENTAL AND PHYSICAL IMPAIRMENTS.

5 (ii) IS MANIFESTED BEFORE THE INDIVIDUAL IS 22 YEARS OLD.

6 (iii) IS LIKELY TO CONTINUE INDEFINITELY.

7 (iv) RESULTS IN SUBSTANTIAL FUNCTIONAL LIMITATIONS IN 3 OR
8 MORE OF THE FOLLOWING AREAS OF MAJOR LIFE ACTIVITY:

9 (A) SELF-CARE.

10 (B) RECEPTIVE AND EXPRESSIVE LANGUAGE.

11 (C) LEARNING.

12 (D) MOBILITY.

13 (E) SELF-DIRECTION.

14 (F) CAPACITY FOR INDEPENDENT LIVING.

15 (G) ECONOMIC SELF-SUFFICIENCY.

16 (v) REFLECTS THE INDIVIDUAL'S NEED FOR A COMBINATION AND
17 SEQUENCE OF SPECIAL, INTERDISCIPLINARY, OR GENERIC CARE, TREAT-
18 MENT, OR OTHER SERVICES THAT ARE OF LIFELONG OR EXTENDED DURATION
19 AND ARE INDIVIDUALLY PLANNED AND COORDINATED.

20 (B) IF APPLIED TO A MINOR FROM BIRTH TO AGE 5, A SUBSTANTIAL
21 DEVELOPMENTAL DELAY OR A SPECIFIC CONGENITAL OR ACQUIRED CONDI-
22 TION WITH A HIGH PROBABILITY OF RESULTING IN DEVELOPMENTAL DIS-
23 ABILITY AS DEFINED IN SUBDIVISION (A) IF SERVICES ARE NOT
24 PROVIDED.

25 (19) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
26 MENTAL HEALTH OR HIS OR HER DESIGNEE.

1 (20) "DISCHARGE" MEANS AN ABSOLUTE, UNCONDITIONAL RELEASE OF
2 AN INDIVIDUAL FROM A FACILITY BY ACTION OF THE FACILITY OR A
3 COURT.

4 (21) "ELIGIBLE MINOR" MEANS AN INDIVIDUAL LESS THAN 18 YEARS
5 OF AGE WHO IS RECOMMENDED IN THE WRITTEN REPORT OF A MULTIDISCI-
6 PLINARY TEAM UNDER RULES PROMULGATED BY THE DEPARTMENT OF EDUCA-
7 TION TO BE CLASSIFIED AS 1 OF THE FOLLOWING:

8 (A) SEVERELY MENTALLY IMPAIRED.

9 (B) SEVERELY MULTIPLY IMPAIRED.

10 (C) AUTISTIC IMPAIRED AND RECEIVING SPECIAL EDUCATION SERV-
11 ICES IN A CLASSROOM DESIGNED FOR THE AUTISTIC IMPAIRED UNDER SUB-
12 SECTION (1) OF R 340.1758 OF THE MICHIGAN ADMINISTRATIVE CODE OR
13 IN A CLASSROOM DESIGNED FOR THE SEVERELY MENTALLY IMPAIRED OR
14 SEVERELY MULTIPLY IMPAIRED.

15 (22) "EMERGENCY SITUATION" MEANS A SITUATION THAT REQUIRES
16 THE IMMEDIATE PLACEMENT OF AN INDIVIDUAL IN A STATE FACILITY OR A
17 LICENSED HOSPITAL IF ALTERNATIVE SERVICES ARE NOT PROVIDED.

18 (23) "EXECUTIVE DIRECTOR" MEANS AN INDIVIDUAL APPOINTED
19 UNDER SECTION 226 TO DIRECT A COMMUNITY MENTAL HEALTH SERVICES
20 PROGRAM.

21 SEC. 100B. (1) "FACILITY" MEANS A RESIDENTIAL FACILITY FOR
22 THE TREATMENT OF INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, SERIOUS
23 EMOTIONAL DISTURBANCE, OR DEVELOPMENTAL DISABILITY THAT IS EITHER
24 A STATE FACILITY OR A LICENSED FACILITY.

25 (2) "FAMILY" AS USED IN SECTIONS 156 TO 161 MEANS AN ELIGI-
26 BLE MINOR AND HIS OR HER BIOLOGICAL OR ADOPTIVE PARENT OR LEGAL
27 GUARDIAN.

1 (3) "FAMILY MEMBER" MEANS A PARENT, SPOUSE, SIBLING, CHILD,
2 OR GRANDPARENT OF A PRIMARY CONSUMER, OR AN INDIVIDUAL UPON WHOM
3 A PRIMARY CONSUMER IS DEPENDENT FOR AT LEAST 50% OF HIS OR HER
4 FINANCIAL SUPPORT.

5 (4) "FEDERAL FUNDS" MEANS FUNDS RECEIVED FROM THE FEDERAL
6 GOVERNMENT UNDER A CATEGORICAL GRANT OR SIMILAR PROGRAM AND DOES
7 NOT INCLUDE FEDERAL FUNDS RECEIVED UNDER A REVENUE SHARING
8 ARRANGEMENT.

9 (5) "FUNCTIONAL IMPAIRMENT" MEANS BOTH OF THE FOLLOWING:

10 (A) WITH REGARD TO SERIOUS EMOTIONAL DISTURBANCE, SUBSTAN-
11 TIAL INTERFERENCE WITH OR LIMITATION OF A MINOR'S ACHIEVEMENT OR
12 MAINTENANCE OF 1 OR MORE DEVELOPMENTALLY APPROPRIATE SOCIAL,
13 BEHAVIORAL, COGNITIVE, COMMUNICATIVE, OR ADAPTIVE SKILLS.

14 (B) WITH REGARD TO SERIOUS MENTAL ILLNESS, SUBSTANTIAL
15 INTERFERENCE OR LIMITATION OF ROLE FUNCTIONING IN 1 OR MORE MAJOR
16 LIFE ACTIVITIES INCLUDING BASIC LIVING SKILLS SUCH AS EATING,
17 BATHING, AND DRESSING; INSTRUMENTAL LIVING SKILLS SUCH AS MAIN-
18 TAINING A HOUSEHOLD, MANAGING MONEY, GETTING AROUND THE COMMUNI-
19 TY, AND TAKING PRESCRIBED MEDICATION; AND FUNCTIONING IN SOCIAL,
20 VOCATIONAL, AND EDUCATIONAL CONTEXTS.

21 (6) "GUARDIAN" MEANS A PERSON WITH COURT-ORDERED AUTHORITY
22 FOR THE CARE AND CUSTODY OF AN INDIVIDUAL.

23 (7) "HOSPITAL" OR "PSYCHIATRIC HOSPITAL" MEANS AN INPATIENT
24 PROGRAM OPERATED BY THE DEPARTMENT FOR THE TREATMENT OF INDIVIDU-
25 ALS WITH SERIOUS MENTAL ILLNESS OR SERIOUS EMOTIONAL DISTURBANCE
26 OR A PSYCHIATRIC HOSPITAL OR PSYCHIATRIC UNIT LICENSED UNDER
27 SECTION 137.

1 (8) "HOSPITAL DIRECTOR" MEANS THE CHIEF ADMINISTRATIVE
2 OFFICER OF A HOSPITAL OR HIS OR HER DESIGNEE.

3 (9) "HOSPITALIZATION" OR "HOSPITALIZE" MEANS TO PROVIDE
4 TREATMENT FOR AN INDIVIDUAL AS AN INPATIENT IN A HOSPITAL.

5 (10) "INDIVIDUAL PLAN OF SERVICES" OR "PLAN OF SERVICES"
6 MEANS A WRITTEN INDIVIDUALIZED PLAN OF SERVICES DEVELOPED FOR A
7 RECIPIENT AS REQUIRED BY SECTION 712.

8 (11) "LICENSED FACILITY" MEANS A FACILITY LICENSED BY THE
9 DEPARTMENT UNDER SECTION 137 OR AN ADULT FOSTER CARE FACILITY.

10 (12) "MENTAL HEALTH PROFESSIONAL" MEANS AN INDIVIDUAL WHO IS
11 TRAINED AND EXPERIENCED IN THE AREAS OF MENTAL ILLNESS OR DEVEL-
12 OPMENTAL DISABILITIES AND WHO IS 1 OF THE FOLLOWING:

13 (A) A PHYSICIAN WHO IS LICENSED TO PRACTICE MEDICINE OR
14 OSTEOPATHIC MEDICINE AND SURGERY IN THIS STATE UNDER ARTICLE 15
15 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF
16 1978, BEING SECTIONS 333.16101 TO 333.18838 OF THE MICHIGAN
17 COMPILED LAWS.

18 (B) A PSYCHOLOGIST LICENSED TO PRACTICE IN THIS STATE UNDER
19 ARTICLE 15 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
20 ACTS OF 1978.

21 (C) A REGISTERED PROFESSIONAL NURSE LICENSED TO PRACTICE IN
22 THIS STATE UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, ACT
23 NO. 368 OF THE PUBLIC ACTS OF 1978.

24 (D) A CERTIFIED SOCIAL WORKER, A SOCIAL WORKER, OR A SOCIAL
25 WORKER TECHNICIAN REGISTERED IN THIS STATE UNDER ARTICLE 16 OF
26 THE OCCUPATIONAL CODE, ACT NO. 299 OF THE PUBLIC ACTS OF 1980,

1 BEING SECTIONS 339.1601 TO 339.1610 OF THE MICHIGAN COMPILED
2 LAWS.

3 (E) A LICENSED PROFESSIONAL COUNSELOR LICENSED TO PRACTICE
4 IN THIS STATE UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, ACT NO.
5 368 OF THE PUBLIC ACTS OF 1978.

6 (F) "MARRIAGE AND FAMILY THERAPIST" MEANS AN INDIVIDUAL
7 LICENSED UNDER ARTICLE 15 OF THE OCCUPATIONAL CODE, ACT NO. 299
8 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 339.1501 TO 339.1511
9 OF THE MICHIGAN COMPILED LAWS.

10 (13) "MENTAL RETARDATION" MEANS A CONDITION MANIFESTING
11 BEFORE THE AGE OF 18 YEARS THAT IS CHARACTERIZED BY SIGNIFICANTLY
12 SUBAVERAGE INTELLECTUAL FUNCTIONING AND RELATED LIMITATIONS IN 2
13 OR MORE ADAPTIVE SKILLS AND THAT IS DIAGNOSED BASED ON THE FOL-
14 LOWING ASSUMPTIONS:

15 (A) VALID ASSESSMENT CONSIDERS CULTURAL AND LINGUISTIC
16 DIVERSITY, AS WELL AS DIFFERENCES IN COMMUNICATION AND BEHAVIORAL
17 FACTORS.

18 (B) THE EXISTENCE OF LIMITATION IN ADAPTIVE SKILLS OCCURS
19 WITHIN THE CONTEXT OF COMMUNITY ENVIRONMENTS TYPICAL OF THE
20 INDIVIDUAL'S AGE PEERS AND IS INDEXED TO THE INDIVIDUAL'S PARTIC-
21 ULAR NEEDS FOR SUPPORT.

22 (C) SPECIFIC ADAPTIVE SKILL LIMITATIONS OFTEN COEXIST WITH
23 STRENGTHS IN OTHER ADAPTIVE SKILLS OR OTHER PERSONAL
24 CAPABILITIES.

25 (D) WITH APPROPRIATE SUPPORTS OVER A SUSTAINED PERIOD, THE
26 LIFE FUNCTIONING OF THE INDIVIDUAL WITH MENTAL RETARDATION WILL
27 GENERALLY IMPROVE.

1 (14) "MINOR" MEANS AN INDIVIDUAL UNDER THE AGE OF 18 YEARS.

2 (15) "NEGLECT" MEANS AN ACT OR FAILURE TO ACT COMMITTED BY

3 AN EMPLOYEE OR VOLUNTEER OF THE DEPARTMENT, A COMMUNITY MENTAL

4 HEALTH SERVICES PROGRAM, OR A LICENSED HOSPITAL, OR AN EMPLOYEE

5 OR VOLUNTEER OF A SERVICE PROVIDER UNDER CONTRACT WITH THE

6 DEPARTMENT, COMMUNITY MENTAL HEALTH SERVICES PROGRAM, OR LICENSED

7 HOSPITAL, THAT DENIES A RECIPIENT THE STANDARD OF CARE OR TREAT-

8 MENT TO WHICH HE OR SHE IS ENTITLED.

9 SEC. 100C. (1) "PEACE OFFICER" MEANS AN OFFICER OF THE

10 DEPARTMENT OF STATE POLICE OR OF A LAW ENFORCEMENT AGENCY OF A

11 COUNTY, TOWNSHIP, CITY, OR VILLAGE WHO IS RESPONSIBLE FOR THE

12 PREVENTION AND DETECTION OF CRIME AND ENFORCEMENT OF THE CRIMINAL

13 LAWS OF THIS STATE. FOR THE PURPOSES OF SECTIONS 408 AND 427,

14 PEACE OFFICER ALSO INCLUDES AN OFFICER OF THE UNITED STATES

15 SECRET SERVICE WITH THE OFFICER'S CONSENT AND A POLICE OFFICER OF

16 THE VETERANS' ADMINISTRATION MEDICAL CENTER RESERVATION.

17 (2) "PEER REVIEW" MEANS A PROCESS, INCLUDING THE REVIEW PRO-

18 CESS REQUIRED UNDER SECTION 143A, IN WHICH MENTAL HEALTH PROFES-

19 SIONALS OF A STATE FACILITY, A FACILITY LICENSED BY THE DEPART-

20 MENT, OR A COMMUNITY MENTAL HEALTH SERVICES PROGRAM EVALUATE THE

21 CLINICAL COMPETENCE OF OTHER PROFESSIONAL STAFF AND THE QUALITY

22 OF CARE THAT THEY PROVIDED TO RECIPIENTS. PEER EVALUATIONS ARE

23 BASED ON CRITERIA ESTABLISHED BY THE FACILITY OR COMMUNITY MENTAL

24 HEALTH SERVICES PROGRAM ITSELF, THE ACCEPTED STANDARDS OF THE

25 MENTAL HEALTH PROFESSIONS, AND THE DEPARTMENTS OF MENTAL HEALTH

26 AND PUBLIC HEALTH.

1 (3) "PERSON REQUIRING TREATMENT" MEANS AN INDIVIDUAL WHO
2 MEETS THE CRITERIA DESCRIBED IN SECTION 401.

3 (4) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED BY THE STATE TO
4 ENGAGE IN THE PRACTICE OF MEDICINE OR OSTEOPATHIC MEDICINE AND
5 SURGERY UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, ACT NO. 368
6 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.16101 TO 333.18838
7 OF THE MICHIGAN COMPILED LAWS.

8 (5) "PRIMARY CONSUMER" MEANS AN INDIVIDUAL WHO HAS RECEIVED
9 OR IS RECEIVING SERVICES FROM THE DEPARTMENT OR A COMMUNITY
10 MENTAL HEALTH SERVICES PROGRAM OR SERVICES FROM THE PRIVATE
11 SECTOR EQUIVALENT TO THOSE OFFERED BY THE DEPARTMENT OR A COMMU-
12 NITY MENTAL HEALTH SERVICES PROGRAM.

13 (6) "PRIORITY" MEANS PREFERENCE FOR AND DEDICATION OF A
14 MAJOR PROPORTION OF RESOURCES TO SPECIFIED POPULATIONS OR
15 SERVICES. PRIORITY DOES NOT MEAN SERVING OR FUNDING THE SPECI-
16 FIED POPULATIONS OR SERVICES TO THE EXCLUSION OF OTHER POPULA-
17 TIONS OR SERVICES.

18 (7) "PROTECTIVE CUSTODY" MEANS THE TEMPORARY CUSTODY OF AN
19 INDIVIDUAL BY A PEACE OFFICER WITH OR WITHOUT THE INDIVIDUAL'S
20 CONSENT FOR THE PURPOSE OF PROTECTING THAT INDIVIDUAL'S HEALTH
21 AND SAFETY, OR THE HEALTH AND SAFETY OF THE PUBLIC, AND FOR THE
22 PURPOSE OF TRANSPORTING THE INDIVIDUAL UNDER SECTION 408 OR 427
23 IF THE INDIVIDUAL APPEARS, IN THE JUDGMENT OF THE PEACE OFFICER,
24 TO BE A PERSON REQUIRING TREATMENT OR IS A PERSON REQUIRING
25 TREATMENT. PROTECTIVE CUSTODY IS CIVIL IN NATURE AND IS NOT TO
26 BE CONSTRUED AS AN ARREST.

1 (8) "PSYCHIATRIC PARTIAL HOSPITALIZATION PROGRAM" MEANS A
2 NONRESIDENTIAL TREATMENT PROGRAM THAT PROVIDES PSYCHIATRIC,
3 PSYCHOLOGICAL, SOCIAL, OCCUPATIONAL, NURSING, AND THERAPEUTIC
4 RECREATIONAL SERVICES UNDER THE SUPERVISION OF A PHYSICIAN TO
5 ADULTS DIAGNOSED AS HAVING MENTAL ILLNESS OR MINORS DIAGNOSED AS
6 HAVING EMOTIONAL DISTURBANCE WHO DO NOT REQUIRE 24-HOUR CONTINU-
7 OUS MENTAL HEALTH CARE, AND THAT IS AFFILIATED WITH A PSYCHIATRIC
8 HOSPITAL OR PSYCHIATRIC UNIT TO WHICH CLIENTS MAY BE TRANSFERRED
9 IF THEY NEED INPATIENT PSYCHIATRIC CARE.

10 (9) "PSYCHIATRIC UNIT" MEANS A UNIT OF A GENERAL HOSPITAL,
11 WHICH PROVIDES INPATIENT SERVICES FOR INDIVIDUALS WITH SERIOUS
12 MENTAL ILLNESS OR SERIOUS EMOTIONAL DISTURBANCE. AS USED IN THIS
13 SUBSECTION, "GENERAL HOSPITAL" MEANS A HOSPITAL AS DEFINED IN
14 SECTION 20106 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE
15 PUBLIC ACTS OF 1978, BEING SECTION 333.20106 OF THE MICHIGAN
16 COMPILED LAWS.

17 (10) "PSYCHIATRIST" MEANS A PHYSICIAN WHO DEVOTES A SUBSTAN-
18 TIAL PORTION OF HIS OR HER TIME TO THE PRACTICE OF PSYCHIATRY AND
19 WHO HAS PRACTICED PSYCHIATRY FOR 1 CONTINUOUS YEAR OUT OF THE 3
20 YEARS IMMEDIATELY PRECEDING HIS OR HER EXECUTION OF A CLINICAL
21 CERTIFICATE UNDER CHAPTER 4.

22 (11) "PSYCHOLOGIST" MEANS AN INDIVIDUAL LICENSED TO ENGAGE
23 IN THE PRACTICE OF PSYCHOLOGY UNDER ARTICLE 15 OF ACT NO. 368 OF
24 THE PUBLIC ACTS OF 1978, WHO DEVOTES A SUBSTANTIAL PORTION OF HIS
25 OR HER TIME TO THE DIAGNOSIS AND TREATMENT OF INDIVIDUALS WITH
26 SERIOUS MENTAL ILLNESS, SERIOUS EMOTIONAL DISTURBANCE, OR
27 DEVELOPMENTAL DISABILITY.

1 (12) "RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES MENTAL
2 HEALTH SERVICES FROM THE DEPARTMENT, A COMMUNITY MENTAL HEALTH
3 SERVICES PROGRAM, OR A FACILITY OR FROM A PROVIDER THAT IS UNDER
4 CONTRACT WITH THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERV-
5 ICES PROGRAM.

6 (13) "RECIPIENT RIGHTS ADVISORY COMMITTEE" MEANS A COMMITTEE
7 OF A COMMUNITY MENTAL HEALTH SERVICES PROGRAM BOARD APPOINTED
8 UNDER SECTION 757 OR A RECIPIENT RIGHTS ADVISORY COMMITTEE
9 APPOINTED BY A LICENSED HOSPITAL UNDER SECTION 758.

10 (14) "RESIDENT" MEANS AN INDIVIDUAL WHO RECEIVES SERVICES IN
11 A FACILITY.

12 (15) "RESPONSIBLE MENTAL HEALTH AGENCY" MEANS THE HOSPITAL,
13 CENTER, OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM THAT HAS PRI-
14 MARY RESPONSIBILITY FOR THE RECIPIENT'S CARE OR FOR THE DELIVERY
15 OF SERVICES OR SUPPORTS TO THAT RECIPIENT.

16 (16) "RULE" MEANS A RULE PROMULGATED UNDER THE ADMINISTRA-
17 TIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
18 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
19 LAWS.

20 SEC. 100D. (1) "SERVICE" MEANS A MENTAL HEALTH SERVICE.

21 (2) "SERIOUS EMOTIONAL DISTURBANCE" MEANS A DIAGNOSABLE
22 MENTAL, BEHAVIORAL, OR EMOTIONAL DISORDER AFFECTING A MINOR THAT
23 EXISTS OR HAS EXISTED DURING THE PAST YEAR FOR A PERIOD OF TIME
24 SUFFICIENT TO MEET DIAGNOSTIC CRITERIA SPECIFIED IN THE MOST
25 RECENT DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS PUB-
26 LISHED BY THE AMERICAN PSYCHIATRIC ASSOCIATION AND APPROVED BY
27 THE DEPARTMENT AND THAT HAS RESULTED IN FUNCTIONAL IMPAIRMENT

1 THAT SUBSTANTIALLY INTERFERES WITH OR LIMITS THE MINOR'S ROLE OR
2 FUNCTIONING IN FAMILY, SCHOOL, OR COMMUNITY ACTIVITIES. THE FOL-
3 LOWING DISORDERS ARE INCLUDED ONLY IF THEY OCCUR IN CONJUNCTION
4 WITH ANOTHER DIAGNOSABLE SERIOUS EMOTIONAL DISTURBANCE:

5 (A) A SUBSTANCE ABUSE DISORDER.

6 (B) A DEVELOPMENTAL DISORDER.

7 (C) DISORDERS CONSTITUTING "V" CODES IN THE DIAGNOSTIC AND
8 STATISTICAL MANUAL OF MENTAL DISORDERS.

9 (3) "SERIOUS MENTAL ILLNESS" MEANS A DIAGNOSABLE MENTAL,
10 BEHAVIORAL, OR EMOTIONAL DISORDER AFFECTING AN ADULT THAT EXISTS
11 OR HAS EXISTED WITHIN THE PAST YEAR FOR A PERIOD OF TIME SUFFI-
12 CIENT TO MEET DIAGNOSTIC CRITERIA SPECIFIED IN THE MOST RECENT
13 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS PUBLISHED
14 BY THE AMERICAN PSYCHIATRIC ASSOCIATION AND APPROVED BY THE
15 DEPARTMENT AND THAT HAS RESULTED IN FUNCTIONAL IMPAIRMENT THAT
16 SUBSTANTIALLY INTERFERES WITH OR LIMITS 1 OR MORE MAJOR LIFE
17 ACTIVITIES. SERIOUS MENTAL ILLNESS INCLUDES DEMENTIA WITH DELU-
18 SIONS, DEMENTIA WITH DEPRESSED MOOD, AND DEMENTIA WITH BEHAVIORAL
19 DISTURBANCE BUT DOES NOT INCLUDE ANY OTHER DEMENTIA UNLESS THE
20 DEMENTIA OCCURS IN CONJUNCTION WITH ANOTHER DIAGNOSABLE SERIOUS
21 MENTAL ILLNESS. THE FOLLOWING DISORDERS ALSO ARE INCLUDED ONLY
22 IF THEY OCCUR IN CONJUNCTION WITH ANOTHER DIAGNOSABLE SERIOUS
23 MENTAL ILLNESS:

24 (A) A SUBSTANCE ABUSE DISORDER.

25 (B) A DEVELOPMENTAL DISORDER.

26 (C) A DISORDER CONSTITUTING A "V" CODE IN THE DIAGNOSTIC AND
27 STATISTICAL MANUAL OF MENTAL DISORDERS.

1 (4) "SPECIAL COMPENSATION" MEANS PAYMENT TO AN ADULT FOSTER
2 CARE FACILITY TO ENSURE THE PROVISION OF A SPECIALIZED PROGRAM IN
3 ADDITION TO THE BASIC PAYMENT FOR ADULT FOSTER CARE. SPECIAL
4 COMPENSATION DOES NOT INCLUDE PAYMENT RECEIVED DIRECTLY FROM THE
5 MEDICAID PROGRAM FOR PERSONAL CARE SERVICES FOR A RESIDENT, OR
6 PAYMENT RECEIVED UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

7 (5) "SPECIALIZED PROGRAM" MEANS A PROGRAM OF SERVICES, SUP-
8 PORTS, OR TREATMENT PROVIDED IN AN ADULT FOSTER CARE FACILITY TO
9 MEET THE UNIQUE PROGRAMMATIC NEEDS OF INDIVIDUALS WITH SERIOUS
10 MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY AS SET FORTH IN THE
11 RESIDENT'S INDIVIDUAL PLAN OF SERVICE AND FOR WHICH THE ADULT
12 FOSTER CARE FACILITY RECEIVES SPECIAL COMPENSATION.

13 (6) "SPECIALIZED RESIDENTIAL SERVICE" MEANS A COMBINATION OF
14 RESIDENTIAL CARE AND MENTAL HEALTH SERVICES WHICH ARE EXPRESSLY
15 DESIGNED TO PROVIDE REHABILITATION AND THERAPY TO A RECIPIENT,
16 WHICH ARE PROVIDED IN THE RESIDENCE OF THE RECIPIENT, AND WHICH
17 ARE PART OF A COMPREHENSIVE INDIVIDUAL PLAN OF SERVICES.

18 (7) "STATE FACILITY" MEANS A CENTER OR A HOSPITAL OPERATED
19 BY THE DEPARTMENT.

20 (8) "STATE RECIPIENT RIGHTS ADVISORY COMMITTEE" MEANS A COM-
21 MITTEE APPOINTED BY THE DIRECTOR UNDER SECTION 756 TO ADVISE THE
22 DIRECTOR AND THE DIRECTOR OF THE DEPARTMENT'S OFFICE OF RECIPIENT
23 RIGHTS.

24 (9) "SUBSTANCE ABUSE" MEANS THAT TERM AS DEFINED IN SECTION
25 6107 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF
26 1978, BEING SECTION 333.6107 OF THE MICHIGAN COMPILED LAWS.

1 (10) "SUPPLEMENTAL SECURITY INCOME" MEANS THE PROGRAM
2 AUTHORIZED UNDER TITLE XVI OF THE SOCIAL SECURITY ACT, CHAPTER
3 531, 49 STAT. 620, U.S.C. 1381 TO 1382j AND 1383 TO 1383d.

4 (11) "TRANSITION SERVICES" MEANS A COORDINATED SET OF ACTIV-
5 ITIES FOR A SPECIAL EDUCATION STUDENT DESIGNED WITHIN AN
6 OUTCOME-ORIENTED PROCESS THAT PROMOTES MOVEMENT FROM SCHOOL TO
7 POSTSCHOOL ACTIVITIES, INCLUDING POSTSECONDARY EDUCATION, VOCA-
8 TIONAL TRAINING, INTEGRATED EMPLOYMENT INCLUDING SUPPORTED
9 EMPLOYMENT, CONTINUING AND ADULT EDUCATION, ADULT SERVICES, INDE-
10 PENDENT LIVING, OR COMMUNITY PARTICIPATION.

11 (12) "TREATMENT" MEANS CARE, DIAGNOSTIC, AND THERAPEUTIC
12 SERVICES, INCLUDING THE ADMINISTRATION OF DRUGS, AND ANY OTHER
13 SERVICE FOR THE TREATMENT OF AN INDIVIDUAL'S SERIOUS MENTAL ILL-
14 NESS OR SERIOUS EMOTIONAL DISTURBANCE.

15 (13) "TREATMENT POSITION" MEANS A UNIT OF MEASURE OF THE
16 CLIENT CAPACITY OF A PSYCHIATRIC PARTIAL HOSPITALIZATION
17 PROGRAM. EACH TREATMENT POSITION REPRESENTS A MINIMUM OF 6 HOURS
18 PER DAY AND 5 DAYS PER CALENDAR WEEK.

19 (14) "URGENT SITUATION" MEANS A SITUATION THAT WILL REQUIRE
20 THE PLACEMENT OF AN INDIVIDUAL IN A STATE FACILITY OR LICENSED
21 HOSPITAL WITHIN 30 DAYS OR LESS IF ALTERNATIVE SERVICES ARE NOT
22 PROVIDED.

23 Sec. 110. (1) A citizens mental health advisory council is
24 established to advise and assist the director in developing and
25 executing mental health policies and programs.

26 (2) The council shall consist of 12 members who shall be
27 appointed by the governor. The term of office of each member

1 shall be 2 years, except that, of the members first appointed, 6
2 shall be appointed for a term of ~~one~~ 1 year. A member shall be
3 paid a reasonable per diem and reimbursed for necessary travel
4 expenses for each meeting attended. A meeting shall be held at
5 least once every 3 months, upon call of the director. The coun-
6 cil shall annually, by majority vote, choose a ~~chairman~~
7 CHAIRPERSON from among its own membership.

8 (3) THE COMPOSITION OF THE CITIZENS MENTAL HEALTH ADVISORY
9 COUNCIL SHALL BE REPRESENTATIVE OF PRIMARY CONSUMERS, AGENCIES
10 AND PROFESSIONALS HAVING A WORKING INVOLVEMENT WITH MENTAL HEALTH
11 SERVICES, AND THE GENERAL PUBLIC. AT LEAST 4 MEMBERS OF THE
12 COUNCIL SHALL BE PRIMARY CONSUMERS OR FAMILY MEMBERS, AND AT
13 LEAST 2 OF THOSE 4 SHALL BE PRIMARY CONSUMERS.

14 Sec. 116. (1) ~~Pursuant to~~ CONSISTENT WITH section 51 of
15 article IV of the state constitution of 1963, which declares that
16 the health of the people of the state is a matter of primary
17 public concern, ~~—~~ and ~~pursuant to~~ AS REQUIRED BY section 8 of
18 article VIII of the state constitution of 1963, which declares
19 that services for the care, treatment, education, or rehabilita-
20 tion of those who are seriously mentally handicapped shall always
21 be fostered and supported, ~~—~~ the department shall continually
22 and diligently endeavor to ensure that adequate and appropriate
23 mental health services are available to all citizens throughout
24 the state. To this end, the department shall have the
25 ~~following~~ general powers and duties ~~—~~ DESCRIBED IN THIS
26 SECTION.

(2) THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

(a) It shall ~~function in the areas of~~ DIRECT SERVICES TO INDIVIDUALS WHO HAVE A SERIOUS mental illness, developmental ~~disabilities, organic brain and other neurological impairment or disease, alcoholism, substance abuse, the prevention of mental disability, and the promotion of good mental health. Within the area of mental illness, priority shall be given to the more severe forms of disability.~~ DISABILITY, OR SERIOUS EMOTIONAL DISTURBANCE. THE DEPARTMENT SHALL GIVE PRIORITY TO THE FOLLOWING SERVICES:

~~(b) It may provide, on a residential or nonresidential basis, any type of patient or client service including but not limited to prevention, diagnosis, treatment, care, education, training, and rehabilitation.~~

~~(c) It may engage in research programs and staff and professional training programs.~~

~~(d) It may operate directly or through contractual arrangement the facilities that are necessary or appropriate.~~

(i) SERVICES FOR INDIVIDUALS WITH THE MOST SEVERE FORMS OF SERIOUS MENTAL ILLNESS, SERIOUS EMOTIONAL DISTURBANCE, OR DEVELOPMENTAL DISABILITY.

(ii) SERVICES FOR INDIVIDUALS WITH SERIOUS MENTAL ILLNESS, SERIOUS EMOTIONAL DISTURBANCE, OR DEVELOPMENTAL DISABILITY WHO ARE IN URGENT OR EMERGENCY SITUATIONS.

(B) ~~(e)~~ It shall administer the provisions of chapter 2 so as to promote and maintain an adequate and appropriate system of ~~county~~ community mental health services PROGRAMS throughout the

1 state. In the administration of chapter 2, it shall be the
2 objective of the department to shift ~~from the state to a county~~
3 ~~the~~ primary responsibility for the direct delivery of public
4 mental health services FROM THE STATE TO A COMMUNITY MENTAL
5 HEALTH SERVICES PROGRAM whenever the ~~county shall have~~
6 COMMUNITY MENTAL HEALTH SERVICES PROGRAM HAS demonstrated a will-
7 ingness and capacity to provide an adequate and appropriate
8 system of mental health services for the citizens of the county.

9 (C) ~~(f)~~ It shall engage in planning for the purpose of
10 identifying, assessing, and enunciating the mental health needs
11 of the state.

12 (D) IT SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT SUM-
13 MARIZING ITS ASSESSMENT OF THE MENTAL HEALTH NEEDS OF THE STATE
14 AND INCORPORATING INFORMATION RECEIVED FROM COMMUNITY MENTAL
15 HEALTH SERVICES PROGRAMS UNDER SECTION 226. THE REPORT SHALL
16 INCLUDE AN ESTIMATE OF THE COST OF MEETING ALL IDENTIFIED NEEDS.

17 (E) ~~(g)~~ It shall endeavor to develop and establish
18 arrangements and procedures for the effective coordination and
19 integration of all public mental health services, and for effec-
20 tive cooperation between public and nonpublic services, for the
21 purpose of providing a unified system of statewide mental health
22 care.

23 (F) ~~(h)~~ It shall review and evaluate the relevance, quali-
24 ty, effectiveness, and efficiency of mental health services being
25 provided by the department and shall assure ~~such~~ THE review and
26 evaluation ~~for~~ OF mental health services ~~being~~ provided by
27 ~~county~~ community mental health SERVICES programs.

1 (G) ~~(i)~~ It shall implement those provisions of law under
2 which it is responsible for the licensing or certification of
3 mental health facilities or services.

4 (H) ~~(j)~~ It may enter into any agreement, contract, or
5 arrangement with any INDIVIDUAL OR public or nonpublic entity
6 that is necessary or appropriate to fulfill those duties or exer-
7 cise those powers that have by statute been given to the
8 department.

9 ~~(k) It may accept gifts, grants, bequests, and other dona-~~
10 ~~tions for use in performing its functions. Any funds or property~~
11 ~~accepted shall be used as directed by its donor and in accordance~~
12 ~~with law and the rules and procedures of the department.~~

13 (I) IT SHALL ESTABLISH STANDARDS OF TRAINING AND EXPERIENCE
14 FOR EXECUTIVE DIRECTORS OF COMMUNITY MENTAL HEALTH SERVICES
15 PROGRAMS.

16 (J) IT SHALL SUPPORT RESEARCH AND EVALUATION ACTIVITIES.

17 (K) IT SHALL SUPPORT STAFF TRAINING AND DEVELOPMENT.

18 (L) It shall have the powers necessary or appropriate to
19 fulfill those duties and exercise those powers that have by stat-
20 ute been given to the department and ~~which~~ THAT are not other-
21 wise prohibited by law.

22 (3) THE DEPARTMENT MAY DO ALL OF THE FOLLOWING:

23 (A) DIRECT SERVICES TO INDIVIDUALS WHO HAVE MENTAL DISORDERS
24 THAT MEET DIAGNOSTIC CRITERIA SPECIFIED IN THE MOST RECENT DIAG-
25 NOSTIC AND STATISTICAL MANUAL OF MENTAL HEALTH DISORDERS PUB-
26 LISHED BY THE AMERICAN PSYCHIATRIC ASSOCIATION AND TO THE
27 PREVENTION OF MENTAL DISABILITY AND THE PROMOTION OF MENTAL

1 HEALTH. RESOURCES THAT HAVE BEEN SPECIFICALLY APPROPRIATED FOR
2 SERVICES TO INDIVIDUALS WITH DEMENTIA, ALCOHOLISM, OR SUBSTANCE
3 ABUSE, OR FOR THE PREVENTION OF MENTAL DISABILITY AND THE PROMO-
4 TION OF MENTAL HEALTH SHALL BE UTILIZED FOR THOSE SPECIFIC
5 PURPOSES.

6 (B) PROVIDE, ON A RESIDENTIAL OR NONRESIDENTIAL BASIS, ANY
7 TYPE OF PATIENT OR CLIENT SERVICE INCLUDING BUT NOT LIMITED TO
8 PREVENTION, DIAGNOSIS, TREATMENT, CARE, EDUCATION, TRAINING, AND
9 REHABILITATION.

10 (C) OPERATE MENTAL HEALTH PROGRAMS DIRECTLY OR THROUGH CON-
11 TRACTUAL ARRANGEMENT.

12 (D) INSTITUTE PILOT PROJECTS CONSIDERED APPROPRIATE BY THE
13 DIRECTOR TO TEST NEW MODELS AND CONCEPTS IN SERVICE DELIVERY OR
14 MENTAL HEALTH ADMINISTRATION.

15 (E) IF CONSIDERED APPROPRIATE BY THE DIRECTOR, ISSUE A
16 VOUCHER TO A RECIPIENT OF STATE SERVICES IN ACCORDANCE WITH THE
17 RECIPIENT'S INDIVIDUAL PLAN OF SERVICES DEVELOPED BY THE
18 DEPARTMENT.

19 (F) PROVIDE FUNDING FOR THE PURPOSE OF ESTABLISHING REVOLV-
20 ING LOANS TO ASSIST RECIPIENTS OF PUBLIC MENTAL HEALTH SERVICES
21 TO ACQUIRE OR MAINTAIN AFFORDABLE HOUSING. FUNDING UNDER THIS
22 SUBDIVISION SHALL ONLY BE PROVIDED THROUGH AN AGREEMENT WITH A
23 NONPROFIT FIDUCIARY.

24 (G) ENTER INTO AN AGREEMENT, CONTRACT, OR ARRANGEMENT WITH
25 ANY INDIVIDUAL OR PUBLIC OR NONPUBLIC ENTITY THAT IS NECESSARY OR
26 APPROPRIATE TO FULFILL THOSE DUTIES OR EXERCISE THOSE POWERS THAT
27 HAVE BY STATUTE BEEN GIVEN TO THE DEPARTMENT.

1 (H) ACCEPT GIFTS, GRANTS, BEQUESTS, AND OTHER DONATIONS FOR
 2 USE IN PERFORMING ITS FUNCTIONS. ANY MONEY OR PROPERTY ACCEPTED
 3 SHALL BE USED AS DIRECTED BY ITS DONOR AND IN ACCORDANCE WITH LAW
 4 AND THE RULES AND PROCEDURES OF THE DEPARTMENT.

5 Sec. 124. (1) The department may establish waiting lists
 6 for admissions ~~of whatever kind to , or for the provision of~~
 7 ~~services of whatever kind by, its facilities. Such waiting lists~~
 8 ~~may be by patient, client, or program categories and shall be~~
 9 ~~based on space or other resource availability.~~ STATE OPERATED
 10 PROGRAMS. WAITING LISTS MAY BE BY DIAGNOSTIC GROUPS OR PROGRAM
 11 CATEGORIES.

12 (2) THE DEPARTMENT SHALL REQUIRE THAT COMMUNITY MENTAL
 13 HEALTH SERVICES PROGRAMS MAINTAIN WAITING LISTS IF ALL SERVICE
 14 NEEDS ARE NOT MET, AND THAT THE WAITING LISTS INCLUDE DATA BY
 15 TYPE OF SERVICES. THE ORDER OF PRIORITY ON THE WAITING LISTS
 16 SHALL BE BASED ON SEVERITY AND URGENCY OF NEED.

17 Sec. 126. The department shall endeavor to ensure that no
 18 individual will be admitted to or provided services by a facility
 19 of the department or a facility of a ~~county~~ community mental
 20 health SERVICES program unless ~~such~~ THE facility can provide
 21 treatment or services appropriate to the individual's condition
 22 and needs. The department shall also endeavor to ensure that an
 23 individual's course of treatment will be completed in the short-
 24 est practicable time.

25 Sec. 135. ~~(1) As used in sections 134 through 150:~~

26 ~~(a) "Emotional disturbance" means that term as defined in~~
 27 ~~section 498b.~~

1 ~~(b) "Facility" means a psychiatric hospital, a psychiatric~~
2 ~~unit, or a psychiatric partial hospitalization program.~~

3 ~~(c) "Mental illness" means that term as defined in section~~
4 ~~400a.~~

5 ~~(d) "Psychiatric hospital or psychiatric unit" means an~~
6 ~~establishment offering inpatient services for observation, diag-~~
7 ~~nosis, active treatment, and overnight care of persons with a~~
8 ~~mental disease, or with a chronic mental disease or condition~~
9 ~~requiring the daily direction or supervision of physicians~~
10 ~~licensed to practice in the state.~~

11 ~~(e) "Psychiatric partial hospitalization program" means a~~
12 ~~nonresidential treatment program that provides psychiatric, psy-~~
13 ~~chological, social, occupational, and therapeutic recreational~~
14 ~~service, under the supervision of a physician to persons diag-~~
15 ~~nosed as having mental illness or minors diagnosed as having emo-~~
16 ~~tional disturbance who do not require 24 hour continuous mental~~
17 ~~health care, and that is affiliated with a psychiatric hospital~~
18 ~~or psychiatric unit to which clients may be transferred if they~~
19 ~~need inpatient psychiatric care.~~

20 ~~(f) "Treatment position" means a unit of measure of the~~
21 ~~client capacity of a psychiatric partial hospitalization~~
22 ~~program. Each treatment position represents a minimum of 6 hours~~
23 ~~per day and 5 days per calendar week.~~

24 ~~(1) -(2)~~ The director, by rule, shall set standards that
25 assure the provision of A quality ~~assurance review~~ IMPROVEMENT
26 PLAN, utilization review, and the appropriate training and
27 education of staff and that require documented policies and

1 procedures for the administration of the services that are
2 offered by a psychiatric partial hospitalization program.

3 (2) The DIRECTOR SHALL PROMULGATE rules ~~also shall further~~
4 TO define ALL OF THE FOLLOWING:

5 (a) Psychiatric hospitals and psychiatric hospital services
6 to clearly differentiate between the active intensive care
7 expected in psychiatric hospitals or psychiatric units and that
8 care which is characteristically expected in general hospitals,
9 long-term care facilities, or residential facilities.

10 (b) Psychiatric partial hospitalization program to clearly
11 differentiate between the active intensive care expected in a
12 psychiatric partial hospitalization program and that care which
13 is characteristically provided in a psychiatric outpatient
14 program.

15 (c) The relationship between a partial hospitalization pro-
16 gram and its affiliated inpatient hospital or unit.

17 (3) Sections 134 to 150 do not cover adult foster care
18 facilities ~~licensed under the adult foster care facility licens-~~
19 ~~ing act, Act No. 248 of the Public Acts of 1979, being sections~~
20 ~~400.701 to 400.737 of the Michigan Compiled Laws,~~ or child care
21 organizations licensed under Act No. 116 of the Public Acts of
22 1973, being sections 722.111 to 722.128 of the Michigan Compiled
23 Laws.

24 Sec. 141. A licensee shall maintain a complete record for
25 each patient. The record shall contain at a minimum a written
26 assessment and INDIVIDUAL plan of ~~service~~ SERVICES for the
27 patient, a statement of the purpose of hospitalization or

1 treatment, a description of any tests and examinations performed,
2 and a description of any observations made and treatments
3 provided.

4 Sec. 142. ~~A~~ THE GOVERNING BODY OF A facility licensed
5 under sections 134 through 150 ~~shall have a governing body~~
6 ~~which~~ shall certify to the department of mental health that ~~the~~
7 ~~facility does not discriminate against persons on the basis of~~
8 ~~race, creed, color, sex, or national origin, and the~~ ITS POLI-
9 CIES, PROCEDURES, AND PRACTICES ARE CONSISTENT WITH THE AMERICANS
10 WITH DISABILITIES ACT OF 1990, PUBLIC LAW 101-336, 104 STAT. 327,
11 THE ELLIOTT-LARSEN CIVIL RIGHTS ACT, ACT NO. 453 OF THE PUBLIC
12 ACTS OF 1976, BEING SECTIONS 37.2101 TO 37.2804 OF THE MICHIGAN
13 COMPILED LAWS, AND THE MICHIGAN HANDICAPPERS' CIVIL RIGHTS ACT,
14 ACT NO. 220 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 37.1101 TO
15 37.1607 OF THE MICHIGAN COMPILED LAWS. THE governing body shall
16 direct the administrator of the facility to take such action as
17 is necessary to assure that the facility adheres to ALL OF THE
18 nondiscriminatory ~~practices~~ LAWS DESCRIBED IN THIS SECTION.

19 Sec. 152. The director, after notice to the operator or
20 owner of an adult foster care facility ~~licensed under Act~~
21 ~~No. 287 of the Public Acts of 1972,~~ may suspend, deny, revoke,
22 OR cancel ~~, or refuse to renew~~ a contract, agreement, or
23 arrangement entered into ~~pursuant to~~ UNDER section ~~116(j)~~
24 116(2)(H) if he OR SHE finds that there has been a substantial
25 failure to comply with the requirements as set forth in the con-
26 tract, agreement, or arrangement. The notice shall be by
27 certified mail or personal service, setting forth the particular

1 reasons for the proposed action and fixing a date, not less than
2 30 days from the date of service, on which the operator or owner
3 shall be afforded a hearing before the director or his OR HER
4 designee. The contract, agreement, or arrangement shall not be
5 suspended, denied, revoked, OR canceled ~~, or the renewal~~
6 ~~refused~~ until the director notifies the operator or owner in
7 writing of his OR HER findings of fact and conclusions following
8 such hearing.

9 Sec. 153. (1) The department shall promulgate rules for the
10 placement of ~~mentally ill and developmentally disabled~~ adults
11 WHO HAVE SERIOUS MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY into
12 community based dependent living settings by department agencies,
13 ~~county~~ community mental health ~~boards~~ SERVICES PROGRAMS, and
14 by agencies under contract to the department or to a ~~county~~
15 community mental health ~~board~~ SERVICES PROGRAM. The rules
16 shall include, but not be limited to, the criteria to be used to
17 determine a suitable placement and the specific agencies respon-
18 sible for making decisions regarding a placement.

19 (2) The department shall promulgate rules for the certifica-
20 tion of specialized programs offered in an adult foster care
21 facility to ~~a mentally ill or developmentally disabled resident~~
22 INDIVIDUALS WITH SERIOUS MENTAL ILLNESS OR DEVELOPMENTAL
23 DISABILITY. The rules shall provide for an ADMINISTRATIVE appeal
24 TO THE DEPARTMENT of a denial or limitation of the terms of cer-
25 tification ~~to the department pursuant to~~ UNDER chapter 4 of the
26 administrative procedures act of 1969, Act No. 306 of the Public

1 Acts of 1969, being sections 24.271 to 24.287 of the Michigan
2 Compiled Laws.

3 (3) Upon receipt of a request from an adult foster care
4 facility for certification of a specialized program, the depart-
5 ment shall inspect the facility to determine whether the proposed
6 specialized program conforms with the requirements of this sec-
7 tion and rules promulgated under this section. The department
8 shall provide the department of social services with an inspec-
9 tion report and a certification, denial of certification,
10 REVOCATION, or certification with limited terms for the proposed
11 specialized program. The department shall reinspect a certified
12 specialized program not less than once biennially and notify the
13 department of social services in the same manner as for the ini-
14 tial certification. In carrying out this subsection, the depart-
15 ment may contract with a community mental health ~~board~~ SERVICES
16 PROGRAM or any other agency.

17 ~~(4) As used in this section:~~

18 ~~(a) "Dependent living setting" means any of the following:~~

19 ~~(i) An adult foster care facility licensed under the adult~~
20 ~~foster care facility licensing act, Act No. 218 of the Public~~
21 ~~Acts of 1979, being sections 400.701 to 400.737 of the Michigan~~
22 ~~Compiled Laws.~~

23 ~~(ii) A nursing home licensed under article 17 of the public~~
24 ~~health code, Act No. 368 of the Public Acts of 1978, being sec-~~
25 ~~tions 333.20101 to 333.22181 of the Michigan Compiled Laws.~~

26 ~~(iii) A home for the aged licensed under article 17 of Act~~
27 ~~No. 368 of the Public Acts of 1978.~~

1 ~~(b) "Specialized program" means a program of services or~~
2 ~~treatment provided in an adult foster care facility licensed~~
3 ~~under Act 218 of the Public Acts of 1979 to meet the unique pro-~~
4 ~~grammatic needs of the mentally ill or developmentally disabled~~
5 ~~residents of that home as set forth in the treatment plan for the~~
6 ~~resident and for which the facility receives special~~
7 ~~compensation.~~

8 ~~(c) "Special compensation" means payment to an adult foster~~
9 ~~care facility to ensure the provision of a specialized program in~~
10 ~~addition to the basic payment for adult foster care. Special~~
11 ~~compensation does not include payment received directly from the~~
12 ~~medicaid program for personal care services for a resident, or~~
13 ~~payment received under the supplemental security income program~~
14 ~~under title XVI of the social security act, 42 U.S.C. 1381 to~~
15 ~~1383c.~~

16 ~~(d) "Treatment plan" means an individualized written plan of~~
17 ~~services developed for a resident as required by section 712, or~~
18 ~~an assessment plan as defined in section 3 of the adult foster~~
19 ~~care facility licensing act, Act No. 218 of the Public Acts of~~
20 ~~1979, being section 400.703 of the Michigan Compiled Laws.~~

21 (4) ~~(5)~~ This section does not prevent licensure of an
22 adult foster care facility or the placement of ~~mentally ill or~~
23 ~~developmentally disabled persons~~ INDIVIDUALS WITH SERIOUS MENTAL
24 ILLNESS OR DEVELOPMENTAL DISABILITY into community based depen-
25 dent living settings pending the promulgation by the department
26 of rules under subsection (1) or (2).

1 Sec. 156. The director of the department shall establish a
2 family support subsidy program. ~~pursuant to sections 155 to~~
3 ~~161.~~ The purpose of the family support subsidy program is to
4 keep families together and to reduce capacity in state facilities
5 by defraying some of the special costs of caring for ~~a family~~
6 ~~member~~ ELIGIBLE MINORS, thus facilitating the return of ~~family~~
7 ~~members~~ ELIGIBLE MINORS from out-of-home placements to their
8 family homes, and preventing or delaying the out-of-home place-
9 ment of ~~family members~~ ELIGIBLE MINORS who reside in their
10 family homes.

11 Sec. 157. (1) The department shall promulgate rules to
12 implement sections ~~155~~ 156 to 161. ~~, pursuant to the adminis-~~
13 ~~trative procedures act of 1969, Act No. 306 of the Public Acts of~~
14 ~~1969, being sections 24.201 to 24.315 of the Michigan Compiled~~
15 ~~Laws.~~ The rules shall include an adoption by reference of the
16 standards and criteria used by the department of education in the
17 identification of ~~family members as set forth in section 155(b)~~
18 ELIGIBLE MINORS. The department shall also consult with the
19 department of education on the implementation and coordination of
20 the family support subsidy program.

21 (2) The department shall create application forms and shall
22 make the forms available to ~~the county~~ community mental health
23 SERVICES programs for determining the eligibility of applicants.
24 The forms shall require at least the following information, which
25 constitutes the eligibility criteria for receipt of a family
26 subsidy:

(a) A statement that the family resides in this state.

(b) Verification that the ~~family member~~ ELIGIBLE MINOR meets the definition in section ~~+55-~~ 100A.

(c) A statement that the ~~family member~~ ELIGIBLE MINOR resides, or is expected to reside, with his or her BIOLOGICAL OR ADOPTIVE parent or legal guardian or, on a temporary basis, with another relative. ~~of the family member.~~

(d) A statement that the family is not receiving a medical subsidy for the ~~family member~~ ELIGIBLE MINOR under section ~~+15f-~~ 115H of the social welfare act, Act No. 280 of the Public Acts of 1939, being section ~~400.+15f-~~ 400.115H of the Michigan Compiled Laws.

(e) Verification that the taxable income for the family for the year immediately preceding the date of application did not exceed \$60,000.00, unless it can be verified that the taxable income for the family for the year in which the application is made will be less than \$60,000.00.

Sec. 158. (1) If an application for a family support subsidy is approved by the ~~county~~ community mental health SERVICES program, ALL OF THE FOLLOWING APPLY:

(a) A family support subsidy shall be paid to the BIOLOGICAL OR ADOPTIVE parent or legal guardian on behalf of ~~a family member~~ AN ELIGIBLE MINOR, and shall be considered a benefit to the ~~family member~~ ELIGIBLE MINOR. An approved subsidy shall be payable as of the first of the next month after the ~~county~~ community mental health SERVICES program receives the written application.

1 (b) A family support subsidy shall be used to meet the
2 special needs of the family. Except as otherwise provided in
3 this chapter, this subsidy is intended to complement but not sup-
4 plant public assistance or social service benefits based on eco-
5 nomic need, available through governmental programs.

6 (c) Except as provided in section ~~160(b)~~ 160(2), a family
7 support subsidy shall be in an amount equivalent to the monthly
8 maximum supplemental security income payment available in
9 Michigan for an adult recipient living in the household of anothe-
10 er, as formulated under federal regulations as of July 1, 1984.
11 Increases to this rate shall be determined annually by legisla-
12 tive appropriation. In addition, the BIOLOGICAL OR ADOPTIVE
13 parent or legal guardian of ~~a family member~~ AN ELIGIBLE MINOR
14 who is in an out-of-home placement at the time of application may
15 receive a 1-time, lump-sum advance payment of twice the monthly
16 family subsidy amount for the purpose of meeting the special
17 needs of the family to prepare for in-home care.

18 (2) A ~~county~~ community mental health SERVICES program may
19 contract with the department for services ~~which~~ THAT provide
20 for the payment of family support subsidies through the
21 department.

22 (3) The BIOLOGICAL OR ADOPTIVE parent or legal guardian who
23 receives a family support subsidy shall report, in writing, at
24 least the following information to the county community mental
25 health SERVICES program:

1 (a) Not less than annually, a statement that the family
2 support subsidy was used to meet the special needs of the
3 family.

4 (b) Immediately, the occurrence of any event listed in sec-
5 tion 159.

6 (c) Immediately, if the parent or legal guardian requests
7 termination of the family support subsidy.

8 Sec. 159. (1) The family support subsidy shall terminate if
9 ~~either~~ 1 OR MORE of the following ~~occurs~~ OCCUR:

10 (a) The ~~family member~~ ELIGIBLE MINOR dies.

11 (b) The family no longer meets the eligibility criteria in
12 section 157(2).

13 (c) The ~~family member~~ ELIGIBLE MINOR attains the age of 18
14 years.

15 (2) The family support subsidy may be terminated by a
16 ~~county~~ COMMUNITY mental health SERVICES program if a report
17 required by section 158(3) is not timely made or a report
18 required by section 158(3)(a) is false.

19 (3) If an application for a family support subsidy is denied
20 or a family support subsidy is terminated by a ~~county~~ community
21 mental health SERVICES program, the BIOLOGICAL OR ADOPTIVE parent
22 or legal guardian of the affected ~~family member~~ ELIGIBLE MINOR
23 may demand, in writing, a hearing by the ~~county~~ community
24 mental health SERVICES program. The hearing shall be conducted
25 in the same manner as provided for contested case hearings under
26 CHAPTER 4 OF the administrative procedures act OF 1969, Act

1 No. 306 of the Public Acts of 1969, being sections ~~24.201~~
2 24.271 to ~~24.315~~ 24.287 of the Michigan Compiled Laws.

3 Sec. 161. The department, in conjunction with ~~county~~ com-
4 munity mental health SERVICES programs, shall conduct annually
5 and forward to the governor and the house and senate appropria-
6 tions committees, AND the senate ~~health~~ and ~~social services~~
7 ~~committee and the~~ house ~~mental health~~ ~~committee~~ COMMITTEES
8 WITH JURISDICTION OVER SOCIAL SERVICES AND MENTAL HEALTH an eval-
9 uation of the family support subsidy program ~~which~~ THAT shall
10 include, but not be limited to, all of the following:

11 (a) The impact of the family support subsidy program upon
12 children covered by this act in institutions and residential care
13 programs including, to the extent possible, sample case reviews
14 of families who choose not to participate.

15 (b) Case reviews of families who voluntarily terminate par-
16 ticipation in the family support subsidy program for any reason,
17 particularly when the ~~family member~~ ELIGIBLE MINOR is placed
18 out of the family home, including the involvement of the depart-
19 ment and ~~county~~ community mental health SERVICES programs in
20 offering suitable alternatives.

21 (c) Sample assessments of families receiving family support
22 subsidy payments including adequacy of subsidy and need for serv-
23 ices not available.

24 (d) The efforts to encourage program participation of eligi-
25 ble families.

26 (e) The geographic distribution of families receiving
27 subsidy payments and, to the extent possible, ~~family members~~

1 ELIGIBLE MINORS presumed to be eligible for family support
2 subsidy payments.

3 (f) Programmatic and legislative recommendations to further
4 assist families in providing care for ~~family members~~ ELIGIBLE
5 MINORS.

6 (g) Problems that arise in identifying ~~family members~~
7 ELIGIBLE MINORS through diagnostic evaluations performed
8 ~~pursuant to~~ UNDER rules promulgated by the department of
9 education. ~~, as set forth in section 155(b).~~

10 (h) The number of beds reduced in state institutions and
11 foster care facilities serving severely mentally, multiply, and
12 autistic impaired children when the children return home to their
13 natural families as a result of the subsidy program.

14 (i) The department shall report caseload figures by eligi-
15 bility category as defined in section ~~+55~~ 100A.

16 Sec. 202. The state shall financially support, in accord-
17 ance with chapter 3, ~~county~~ community mental health SERVICES
18 programs that have been established and that are administered
19 pursuant to the provisions of this chapter.

20 Sec. 204. (1) A ~~county~~ community mental health SERVICES
21 program established under this chapter shall be an official
22 county agency, A COMMUNITY MENTAL HEALTH ORGANIZATION, OR A COM-
23 MUNITY MENTAL HEALTH ENTITY. ~~When a county~~

24 (2) IF A COMMUNITY MENTAL HEALTH SERVICES program
25 ~~represents~~ IS AN OFFICIAL COUNTY AGENCY REPRESENTING a single
26 county, the county's board of commissioners shall determine the
27 ~~county~~ procedures and regulations that shall be applicable to

1 the ~~county program~~ AGENCY. ~~When a county program~~ IF A
2 COMMUNITY MENTAL HEALTH SERVICES AGENCY represents 2 or more
3 counties, the boards of commissioners of the represented counties
4 shall by agreement determine the ~~county~~ procedures and regula-
5 tions that shall be applicable to the ~~county program~~ AGENCY.

6 (3) The procedures and regulations FOR MULTICOUNTY COMMUNITY
7 MENTAL HEALTH SERVICES PROGRAMS shall not take effect until at
8 least 3 public hearings on the proposed procedures and regula-
9 tions have been held.

10 SEC. 204A. TWO OR MORE COUNTIES MAY ORGANIZE AND OPERATE A
11 COMMUNITY MENTAL HEALTH SERVICES PROGRAM BY CREATING A COMMUNITY
12 MENTAL HEALTH ORGANIZATION UNDER THE URBAN COOPERATION ACT OF
13 1967, ACT NO. 7 OF THE PUBLIC ACTS OF THE EXTRA SESSION OF 1967,
14 BEING SECTIONS 124.501 TO 124.512 OF THE MICHIGAN COMPILED LAWS.

15 SEC. 205. (1) A COUNTY COMMUNITY MENTAL HEALTH AGENCY MAY
16 BECOME A COMMUNITY MENTAL HEALTH ENTITY AS PROVIDED IN THIS SEC-
17 TION THROUGH AN ENABLING RESOLUTION ADOPTED BY THE BOARD OF COM-
18 MISSIONERS OF EACH CREATING COUNTY AFTER AT LEAST 1 PUBLIC
19 HEARING. THE RESOLUTION IS CONSIDERED ADOPTED IF IT IS APPROVED
20 BY A MAJORITY OF THE COMMISSIONERS ELECTED AND SERVING IN EACH
21 COUNTY CREATING THE ENTITY. THE ENABLING RESOLUTION IS NOT
22 EFFECTIVE UNTIL IT HAS BEEN FILED WITH THE SECRETARY OF STATE AND
23 WITH THE COUNTY CLERK OF EACH COUNTY CREATING THE ENTITY. IF ANY
24 PROVISION OF THE ENABLING RESOLUTION CONFLICTS WITH THIS ACT,
25 THIS ACT SUPERSEDES THE CONFLICTING PROVISION.

26 (2) ALL OF THE FOLLOWING SHALL BE STATED IN THE ENABLING
27 RESOLUTION:

1 (A) THE PURPOSE AND THE AUTHORITY TO BE EXERCISED BY THE
2 COMMUNITY MENTAL HEALTH ENTITY, WHICH SHALL BE TO COMPLY WITH AND
3 CARRY OUT THE PROVISIONS OF THIS ACT.

4 (B) THE DURATION OF THE EXISTENCE OF THE COMMUNITY MENTAL
5 HEALTH ENTITY AND THE METHOD BY WHICH THE ENTITY MAY BE DISSOLVED
6 OR TERMINATED BY ITSELF OR BY THE COUNTY BOARD OR BOARDS OF
7 COMMISSIONERS. THESE PROVISIONS SHALL COMPLY WITH SECTION 220.

8 (C) THE MANNER IN WHICH ANY ASSETS OR LIABILITIES SHALL BE
9 RETURNED TO THE PARTICIPATING COUNTY OR COUNTIES OR DISTRIBUTED
10 AFTER THE DISSOLUTION OR TERMINATION OF THE ENTITY.

11 (D) THE LIABILITY OF THE COMMUNITY MENTAL HEALTH ENTITY FOR
12 COSTS ASSOCIATED WITH REAL OR PERSONAL PROPERTY PURCHASED OR
13 LEASED BY THE COUNTY FOR USE BY THE COMMUNITY MENTAL HEALTH SERV-
14 ICES PROGRAM TO THE EXTENT NECESSARY TO DISCHARGE THE FINANCIAL
15 LIABILITY IF DESIRED BY THE COUNTY OR COUNTIES.

16 (E) THE SPECIFIC ACTION TO BE TAKEN WITH REGARD TO EMPLOYEES
17 OF AN EXISTING COMMUNITY MENTAL HEALTH BOARD WHO ARE AFFECTED BY
18 THE CREATION OF THE COMMUNITY MENTAL HEALTH ENTITY.

19 (F) ANY OTHER MATTER CONSISTENT WITH THIS ACT THAT IS NECES-
20 SARY TO ASSURE OPERATION OF THE COMMUNITY MENTAL HEALTH ENTITY AS
21 AGREED UPON BY THE CREATING COUNTY OR COUNTIES.

22 (3) IF A COUNTY COMMUNITY MENTAL HEALTH AGENCY BECOMES A
23 COMMUNITY MENTAL HEALTH ENTITY PURSUANT TO THIS SECTION, BOTH OF
24 THE FOLLOWING APPLY:

25 (A) ALL ASSETS, DEBTS, AND OBLIGATIONS OF THE COUNTY COMMU-
26 NITY MENTAL HEALTH AGENCY, INCLUDING BUT NOT LIMITED TO
27 EQUIPMENT, FURNISHINGS, SUPPLIES, CASH, AND OTHER PERSONAL

1 PROPERTY, SHALL BE TRANSFERRED TO THE COMMUNITY MENTAL HEALTH
2 ENTITY.

3 (B) ALL THE PRIVILEGES AND IMMUNITIES FROM LIABILITY AND
4 EXEMPTIONS FROM LAWS, ORDINANCES, AND RULES THAT ARE APPLICABLE
5 TO COUNTY COMMUNITY MENTAL HEALTH BOARDS, BOARD MEMBERS, OFFI-
6 CERS, ADMINISTRATORS, AND ELECTED OFFICIALS AND EMPLOYEES OF
7 COUNTY GOVERNMENT ARE RETAINED BY THE BOARD MEMBERS, OFFICERS,
8 AGENTS, AND EMPLOYEES OF AN ENTITY CREATED UNDER THIS SECTION.

9 (4) IN ADDITION TO OTHER POWERS OF A COMMUNITY MENTAL HEALTH
10 SERVICES PROGRAM AS SET FORTH IN THIS ACT, A COMMUNITY MENTAL
11 HEALTH ENTITY HAS ALL OF THE FOLLOWING POWERS, WHETHER OR NOT
12 THEY ARE SPECIFIED IN THE ENABLING RESOLUTION:

13 (A) TO FIX AND COLLECT CHARGES, RATES, RENTS, FEES, INTEREST
14 RATES, OR OTHER CHARGES.

15 (B) TO MAKE PURCHASES AND CONTRACTS.

16 (C) TO TRANSFER, DIVIDE, OR DISTRIBUTE ASSETS, LIABILITIES,
17 OR CONTINGENT LIABILITIES.

18 (D) TO ACCEPT GIFTS, GRANTS, OR BEQUESTS AND DETERMINE THE
19 MANNER IN WHICH THOSE GIFTS, GRANTS, OR BEQUESTS MAY BE USED CON-
20 SISTENT WITH THE DONOR'S REQUEST.

21 (E) TO ACQUIRE, OWN, OPERATE, MAINTAIN, LEASE, OR SELL REAL
22 OR PERSONAL PROPERTY. BEFORE SELLING RESIDENTIAL PROPERTY, HOW-
23 EVER, THE ENTITY SHALL PROVIDE INDIVIDUALS RESIDING ON THE PROP-
24 ERTY OR THEIR LEGAL GUARDIANS, IF ANY, AN OPPORTUNITY TO OFFER
25 THEIR COMMENTS AND CONCERNS REGARDING THE SALE AND SHALL RESPOND
26 TO THOSE COMMENTS AND CONCERNS IN WRITING.

(F) TO DO THE FOLLOWING IN ITS OWN NAME:

(i) ENTER INTO CONTRACTS AND AGREEMENTS.

(ii) EMPLOY STAFF.

(iii) ACQUIRE, CONSTRUCT, MANAGE, MAINTAIN, OR OPERATE BUILDINGS OR IMPROVEMENTS.

(iv) ACQUIRE, OWN, OPERATE, MAINTAIN, LEASE, OR DISPOSE OF REAL OR PERSONAL PROPERTY.

(v) INCUR DEBTS, LIABILITIES, OR OBLIGATIONS THAT DO NOT CONSTITUTE THE DEBTS, LIABILITIES, OR OBLIGATIONS OF THE CREATING COUNTY OR COUNTIES.

(vi) COMMENCE LITIGATION AND DEFEND ITSELF IN LITIGATION.

(G) TO INVEST FUNDS IN ACCORDANCE WITH STATUTES REGARDING INVESTMENTS.

(H) TO SET UP RESERVE ACCOUNTS, UTILIZING STATE FUNDS IN THE SAME PROPORTION THAT STATE FUNDS RELATE TO ALL REVENUE SOURCES, TO COVER VESTED EMPLOYEE BENEFITS INCLUDING BUT NOT LIMITED TO ACCRUED VACATION, HEALTH BENEFITS, THE EMPLOYEE PAYOUT PORTION OF ACCRUED SICK LEAVE, IF ANY, AND WORKER'S COMPENSATION. IN ADDITION, AN ENTITY MAY SET UP RESERVE ACCOUNTS FOR DEPRECIATION OF CAPITAL ASSETS AND FOR EXPECTED FUTURE EXPENDITURES FOR AN ORGANIZATIONAL RETIREMENT PLAN.

(I) TO CARRY FORWARD THE OPERATING MARGIN UP TO 5% OF THE ENTITY'S STATE SHARE OF THE OPERATING BUDGET. AS USED IN THIS SUBDIVISION, "OPERATING MARGIN" MEANS THE EXCESS OF STATE REVENUE OVER STATE EXPENDITURES FOR A SINGLE FISCAL YEAR EXCLUSIVE OF CAPITATED PAYMENTS UNDER A MANAGED CARE SYSTEM. THIS

1 CARRYFORWARD IS IN ADDITION TO THE RESERVE ACCOUNTS DESCRIBED IN
2 SUBDIVISION (H).

3 (J) TO DEVELOP A CHARGE SCHEDULE FOR SERVICES PROVIDED TO
4 THE PUBLIC AND UTILIZE THE CHARGE SCHEDULE FOR FIRST AND
5 THIRD-PARTY PAYERS. THE CHARGE SCHEDULE MAY INCLUDE CHARGES THAT
6 ARE HIGHER THAN COSTS FOR SOME SERVICE UNITS BY SPREADING NONREV-
7 ENUE SERVICE UNIT COSTS TO REVENUE-PRODUCING SERVICE UNIT COSTS
8 WITH TOTAL CHARGES NOT EXCEEDING TOTAL COSTS.

9 (5) IN ADDITION TO OTHER DUTIES AND RESPONSIBILITIES OF A
10 COMMUNITY MENTAL HEALTH SERVICES PROGRAM AS SET FORTH IN THIS
11 ACT, A COMMUNITY MENTAL HEALTH ENTITY SHALL DO ALL OF THE
12 FOLLOWING:

13 (A) PROVIDE A COPY OF AN ANNUAL INDEPENDENT AUDIT TO EACH
14 COUNTY CREATING THE ENTITY AND TO THE DEPARTMENT.

15 (B) BE RESPONSIBLE FOR ALL EXECUTIVE ADMINISTRATION, PERSON-
16 NEL ADMINISTRATION, FINANCE, ACCOUNTING, AND MANAGEMENT INFORMA-
17 TION SYSTEM FUNCTIONS. THE ENTITY MAY DISCHARGE THIS RESPONSI-
18 BILITY THROUGH DIRECT STAFF OR BY CONTRACTING FOR SERVICES.

19 (6) A COUNTY CREATING A COMMUNITY MENTAL HEALTH ENTITY IS
20 NOT LIABLE FOR ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OR
21 FOR ANY OBLIGATION OF A COMMUNITY MENTAL HEALTH ENTITY.

22 (7) A COMMUNITY MENTAL HEALTH ENTITY SHALL NOT LEVY ANY TYPE
23 OF TAX OR ISSUE ANY TYPE OF BOND IN ITS OWN NAME OR FINANCIALLY
24 OBLIGATE ANY UNIT OF GOVERNMENT OTHER THAN ITSELF.

25 (8) A COMMUNITY MENTAL HEALTH ENTITY IS THE SOLE EMPLOYER OF
26 ALL OF ITS EMPLOYEES WITH REGARD TO ALL LAWS PERTAINING TO
27 EMPLOYEE AND EMPLOYER RIGHTS, BENEFITS, AND RESPONSIBILITIES.

1 Sec. 206. The purpose of a ~~county~~ community mental health
2 SERVICES program shall be to provide a ~~range~~ COMPREHENSIVE
3 ARRAY of mental health services ~~for persons~~ APPROPRIATE TO CON-
4 DITIONS OF INDIVIDUALS who are located within ~~that county~~ ITS
5 GEOGRAPHIC SERVICE AREA. SERVICES SHALL BE DESIGNED TO INCREASE
6 INDEPENDENCE, IMPROVE QUALITY OF LIFE, AND SUPPORT COMMUNITY
7 INTEGRATION AND INCLUSION. SERVICES FOR CHILDREN AND FAMILIES
8 SHALL BE DESIGNED TO STRENGTHEN AND PRESERVE THE FAMILY UNIT.
9 THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL DELIVER SERV-
10 ICES IN A MANNER THAT DEMONSTRATES THEY ARE BASED UPON RECIPIENT
11 CHOICE AND INVOLVEMENT. The department of mental health shall
12 designate, by rule, the minimum ~~types and scopes~~ ARRAY of
13 mental health services that ~~shall be provided within a county~~
14 ~~program~~ ALL COMMUNITY MENTAL HEALTH SERVICES PROGRAMS SHALL
15 PROVIDE.

16 SEC. 207. (1) IF A COMMUNITY MENTAL HEALTH SERVICES PROGRAM
17 IS RESPONSIBLE FOR MANAGED MENTAL HEALTH CARE, THE PROGRAM SHALL
18 STRIVE TO ASSURE THAT MENTAL HEALTH, PHYSICAL HEALTH, AND SUPPORT
19 SERVICES ARE COORDINATED.

20 (2) A COMMUNITY MENTAL HEALTH SERVICES PROGRAM MAY FORM A
21 CONSORTIUM WITH 2 OR MORE OTHER COMMUNITY MENTAL HEALTH SERVICES
22 PROGRAMS FOR THE PURPOSE OF PROVIDING A MANAGED CARE SYSTEM.

23 Sec. 208. (1) ~~A service operated within a county~~ SERVICES
24 PROVIDED BY A COMMUNITY MENTAL HEALTH SERVICES program shall be
25 directed to ~~at least 1 of the 5 following mental health areas:~~
26 INDIVIDUALS WHO HAVE A SERIOUS mental illness, SERIOUS EMOTIONAL
27 DISTURBANCE, OR developmental ~~disabilities, organic brain and~~

1 ~~other neurological impairment or disease, alcoholism, or~~
2 ~~substance abuse~~ DISABILITY.

3 (2) SERVICES MAY BE DIRECTED TO INDIVIDUALS WHO HAVE OTHER
4 MENTAL DISORDERS THAT MEET CRITERIA SPECIFIED IN THE MOST RECENT
5 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL HEALTH DISORDERS PUB-
6 LISHED BY THE AMERICAN PSYCHIATRIC ASSOCIATION AND MAY ALSO BE
7 DIRECTED TO THE PREVENTION OF MENTAL DISABILITY AND THE PROMOTION
8 OF MENTAL HEALTH. RESOURCES THAT HAVE BEEN SPECIFICALLY DESIG-
9 NATED TO COMMUNITY MENTAL HEALTH SERVICES PROGRAMS FOR SERVICES
10 TO INDIVIDUALS WITH DEMENTIA, ALCOHOLISM, OR SUBSTANCE ABUSE OR
11 FOR THE PREVENTION OF MENTAL DISABILITY AND THE PROMOTION OF
12 MENTAL HEALTH SHALL BE UTILIZED FOR THOSE SPECIFIC PURPOSES.

13 (3) Priority shall be given to the ~~areas of~~ PROVISION OF
14 SERVICES TO INDIVIDUALS WITH THE MOST SEVERE FORMS OF SERIOUS
15 mental illness, SERIOUS EMOTIONAL DISTURBANCE, and developmental
16 ~~disabilities~~ DISABILITY. ~~A service is any of the following:~~
17 PRIORITY SHALL ALSO BE GIVEN TO THE PROVISION OF SERVICES TO
18 INDIVIDUALS WITH A SERIOUS MENTAL ILLNESS, SERIOUS EMOTIONAL DIS-
19 TURBANCE, OR DEVELOPMENTAL DISABILITY IN URGENT OR EMERGENCY
20 SITUATIONS.

21 ~~(a) Prevention, consultation, collaboration, educational,~~
22 ~~or information service.~~

23 ~~(b) Diagnostic service.~~

24 ~~(c) Emergency service.~~

25 ~~(d) Inpatient service.~~

26 ~~(e) Outpatient service.~~

~~(f) Partial hospitalization service.~~

~~(g) Residential, sheltered, or protective care service.~~

~~(h) Habilitation or rehabilitation service.~~

~~(i) Any other service approved by the department.~~

Sec. 209a. (1) ~~Upon receipt of the notice required by section 209(i), the~~ THE appropriate ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program, with the assistance of the state facility OR LICENSED HOSPITAL UNDER CONTRACT WITH A COMMUNITY MENTAL HEALTH SERVICES PROGRAM, OR THE STATE FACILITY shall develop an individualized ~~pre-release~~ PRERELEASE plan for appropriate community placement and a ~~pre-release~~ PRERELEASE plan for after-care services appropriate for each ~~individual about whom the county program received the notice~~ RESIDENT. If possible, the ~~individual~~ RESIDENT shall participate in the development of a ~~pre-release~~ PRERELEASE plan. In developing a ~~pre-release~~ PRERELEASE plan for a minor, the ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program ~~and the state children's facility~~ shall include all of the following in the planning process IF POSSIBLE:

(a) The minor, if the minor is 14 years of age or older. ~~if possible.~~

(b) The parent or guardian of the minor. ~~As used in this subdivision, "guardian" means any person with authority for the care and custody of a minor pursuant to an order of the probate court or the circuit court.~~

(c) Personnel from the school and other agencies. ~~if possible.~~

1 (2) In the case of a minor in need of ~~an~~ aftercare service
2 with a residential component or an alternative to hospitaliza-
3 tion, if ~~a county~~ THE RESPONSIBLE COMMUNITY MENTAL HEALTH
4 SERVICES program cannot locate a suitable service ~~or~~
5 ~~alternative~~ for the minor in ~~the~~ ITS service area ~~of the~~
6 ~~county program,~~ but ~~a suitable~~ THE service ~~or alternative~~ is
7 available ~~in the~~ FROM ANOTHER service ~~area of a county program~~
8 ~~of another county~~ PROVIDER, the ~~county program~~ responsible
9 ~~for planning for the minor~~ COMMUNITY MENTAL HEALTH SERVICES
10 PROGRAM may contract ~~with the other county program or with the~~
11 ~~agency operating the service or alternative~~ for the provision of
12 services. The ~~county program or agency contracted with~~ SERVICE
13 shall be located as close to the minor's place of residence as
14 possible.

15 (3) ~~The state facility shall advise an individual, about~~
16 ~~whom the county program has not received notice pursuant to sec-~~
17 ~~tion 209(1), of the availability of pre release planning services~~
18 ~~offered by the county program. If the individual requests those~~
19 ~~services, the county program shall be notified and shall develop~~
20 ~~a plan for that individual.~~ A LICENSED HOSPITAL UNDER CONTRACT
21 WITH A COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR A STATE FACIL-
22 ITY SHALL PROVIDE THE RESPONSIBLE COMMUNITY MENTAL HEALTH SERV-
23 ICES PROGRAM WITH ADVANCE NOTICE OF AN INDIVIDUAL'S ANTICIPATED
24 DISCHARGE FROM PATIENT CARE. THE COMMUNITY MENTAL HEALTH SERV-
25 ICES PROGRAM SHALL OFFER PRERELEASE PLANNING SERVICES AND DEVELOP
26 A RELEASE PLAN IN COOPERATION WITH THE INDIVIDUAL UNLESS THE
27 INDIVIDUAL REFUSES THIS SERVICE.

1 (4) The ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program
 2 shall offer ~~post-release~~ POSTRELEASE planning services ~~to~~ FOR
 3 each individual, within 10 days after the release of the individ-
 4 ual from the state facility, if ~~pre-release~~ PRERELEASE planning
 5 cannot be completed ~~for + of the following reasons:~~ (a) The
 6 ~~individual did not consent to notification of his or her admis-~~
 7 ~~sion until shortly before release from the state facility.~~ (b)
 8 ~~The~~ BECAUSE THE individual did not remain in the state facility
 9 for a time that was sufficient to develop a ~~pre-release~~
 10 PRERELEASE plan.

11 (5) Unless covered by contractual agreement, disclosure of
 12 information about the individual by the state facility shall be
 13 made to those individuals involved in the development of the
 14 plans, but shall be limited to:

15 (a) Home address, gender, and medication record.

16 (b) Other information necessary to determine financial and
 17 social service needs, program needs, residential needs, and medi-
 18 cation needs.

19 Sec. 209b. (1) Before an individual is placed in a super-
 20 vised community living arrangement, such as a foster home, group
 21 care home, nursing home, or other ~~facility~~ COMMUNITY-BASED
 22 SETTING, the ~~county program shall involve in pre-release or~~
 23 ~~post-release~~ PRERELEASE OR POSTRELEASE planning FOR the individ-
 24 ual, SHALL INVOLVE, if possible, the INDIVIDUAL, THE INDIVIDUAL'S
 25 legal guardian ~~of the individual~~ IF ONE HAS BEEN APPOINTED; the
 26 parents or legal guardian of a minor individual; the state
 27 facility; the residential care provider, if such a provider has

1 been selected; and, with the consent of the individual, the
2 appropriate local and intermediate school systems and the depart-
3 ment of social services, if appropriate. In each case, the
4 ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program shall produce
5 in writing a plan for community placement and aftercare services
6 ~~which~~ THAT is sufficient to meet the needs of the individual
7 and shall document any lack of available community services nec-
8 essary to implement the plan.

9 (2) Each ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program,
10 as requested, shall send to the department aggregate data, which
11 includes a list of services that were indicated on ~~pre-release~~
12 ~~or post-release~~ PRERELEASE OR POSTRELEASE plans, but which could
13 not be provided.

14 ~~(3) If the department first approves, the county program~~
15 ~~and the state facility may agree, in writing, that the staff of~~
16 ~~the state facility, on a temporary basis, will conduct~~
17 ~~pre-release planning services, pending development by the county~~
18 ~~program of the capability to provide those services.~~

19 Sec. 209d. Each ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
20 program regularly shall review the ~~appropriateness~~ OUTCOMES FOR
21 RECIPIENTS AS A RESULT of programs, treatment, and community
22 services rendered to individuals in community settings and shall
23 ensure that ~~appropriate~~ services are ~~received pursuant to~~
24 PROVIDED CONSISTENTLY WITH the standards of the department.

25 Sec. 210. Any single county or any combination of adjoining
26 counties may elect to establish a ~~county~~ COMMUNITY MENTAL

1 HEALTH SERVICES program by a majority vote of each county board
2 of commissioners.

3 Sec. 212. Upon electing to establish a ~~county~~ COMMUNITY
4 MENTAL HEALTH SERVICES program, the county or combination of
5 counties shall establish a 12-member county community mental
6 health board, except as provided in sections 214, 219, or
7 222(2). Each board of commissioners shall by a majority vote
8 appoint the board members from its county. Recommended appoint-
9 ments to the board shall be made annually following the organiza-
10 tional meeting of the board of commissioners.

11 Sec. 216. Notwithstanding the provisions of sections 212
12 and 214, when a single county establishes a ~~county~~ COMMUNITY
13 MENTAL HEALTH SERVICES program and totally situated within that
14 county is a city having a population of at least 500,000, 6 of
15 the 12 board members shall be appointed to the board by the
16 city's chief executive officer. The 6 board members appointed by
17 the city shall be residents of the city, and the 6 board members
18 appointed by the county shall be residents of the county but not
19 of the city.

20 Sec. 218. Any county that adjoins a county having an estab-
21 lished ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program may
22 elect, by a majority vote of its board of commissioners, to join
23 that established ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
24 program. ~~Such~~ THE joining must be approved by the board of
25 commissioners of each county already participating in the estab-
26 lished ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program, and
27 ~~such~~ THE joining shall become effective on January 1 following

1 the date of final approval. Upon ~~such~~ THE joining, the board
2 of the established ~~county~~ COMMUNITY MENTAL HEALTH SERVICES pro-
3 gram shall be dissolved, and a new board shall be appointed in
4 the manner provided in sections 212 and 214.

5 Sec. 219. (1) ~~Any~~ A county having an established ~~county~~
6 COMMUNITY MENTAL HEALTH SERVICES program may elect to merge with
7 an established ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program
8 in an adjoining county. A merger shall be approved by a majority
9 vote of the board of commissioners of each participating county,
10 and shall become effective on January 1 immediately following the
11 date of final approval.

12 (2) The board of commissioners of each participating county
13 may elect by a majority vote to appoint 1 or more of the commu-
14 nity mental health SERVICES board members to the new board, even
15 if that action would result in a size or composition of the board
16 which is different than that provided for in sections 212, 214,
17 and 222.

18 (3) If the board of commissioners of 1 or more participating
19 counties does not agree to permit appointment of members to the
20 new board in the manner provided in subsection (2), the new board
21 shall be appointed in the manner provided in sections 212, 214,
22 and 222.

23 (4) A new board ~~which, pursuant to subsection (2),~~ THAT is
24 different in size or composition than that provided for in sec-
25 tion 212, 214, or 222 shall be brought into compliance with those
26 sections not later than 3 years after the date of merger.

1 Sec. 220. Termination of a county's participation in a
2 ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program, whether ~~such~~
3 THAT participation is singular or joint, may be accomplished by
4 an official notification from the county's board of commissioners
5 to the department and the other concerned county boards of
6 commissioners. The date of termination shall be 2 years follow-
7 ing the receipt of ~~such~~ notification by the department, unless
8 the director of the department consents to an earlier
9 termination. In the interim between notification and official
10 termination, the county's participation in the ~~county~~ COMMUNITY
11 MENTAL HEALTH SERVICES program shall be maintained in good
12 faith.

13 Sec. 222. (1) The composition of a ~~county~~ community
14 mental health SERVICES board shall be representative of providers
15 of mental health services, recipients or PRIMARY consumers of
16 mental health services, agencies and occupations having a working
17 involvement with mental health services, and the general public.
18 ~~, although such representation need not be in any fixed~~
19 ~~proportion.~~ AT LEAST 1/3 OF THE MEMBERSHIP SHALL BE PRIMARY CON-
20 SUMERS OR FAMILY MEMBERS, AND AT LEAST 2 MEMBERS SHALL BE PRIMARY
21 CONSUMERS. ALL BOARD MEMBERS SHALL BE 18 YEARS OF AGE OR OLDER.

22 (2) Not more than 4 members of a board may be county commis-
23 sioners, except that when a board represents 5 or more counties,
24 the number of county commissioners who may serve on the board may
25 equal the number of counties represented on the board, and the
26 total of 12 board memberships shall be increased by the number of
27 county commissioners serving on the board that exceeds 4. No

1 more than half of the total board members may be state, county,
2 or local public officials. For purposes of this section, public
3 officials are defined as ~~persons~~ INDIVIDUALS serving in an
4 elected or appointed public office or employed more than 20 hours
5 per week by an agency of federal, state, city, or local
6 government.

7 (3) A board member shall have his OR HER primary place of
8 residence in the county he OR SHE represents. An employee of the
9 department, an employee of the ~~county~~ COMMUNITY MENTAL HEALTH
10 SERVICES program, or an employee or representative of an agency
11 having a contractual relationship with the ~~county~~ COMMUNITY
12 MENTAL HEALTH SERVICES program may not be appointed to serve on a
13 board.

14 (4) IN ORDER TO MEET THE REQUIREMENT UNDER SUBSECTION (1)
15 RELATED TO THE APPOINTMENT OF PRIMARY CONSUMERS AND FAMILY MEM-
16 BERS WITHOUT TERMINATING THE APPOINTMENT OF A BOARD MEMBER SERV-
17 ING ON THE EFFECTIVE DATE OF THIS SUBSECTION, THE SIZE OF A BOARD
18 MAY EXCEED THE SIZE PRESCRIBED IN SECTION 212. A BOARD THAT IS
19 DIFFERENT IN SIZE THAN THAT PRESCRIBED IN SECTION 212 SHALL BE
20 BROUGHT INTO COMPLIANCE WITHIN 3 YEARS AFTER THE APPOINTMENT OF
21 THE ADDITIONAL BOARD MEMBERS.

22 Sec. 224. The term of office of a board member shall be 3
23 years from ~~January~~ APRIL 1 of the year of appointment, except
24 that of the members first appointed, 4 shall be appointed for a
25 term of 1 year, 4 for 2 years, and 4 for 3 years. A vacancy
26 shall be filled for an unexpired term in the same manner as an
27 original appointment. A board member may be removed from office

1 by the appointing board of commissioners for neglect of official
2 duty or misconduct in office after being given a written state-
3 ment of reasons and an opportunity to be heard on the removal. A
4 board member shall be paid a per diem no larger than the highest
5 per diem for members of other county advisory boards set by the
6 county board of commissioners and be reimbursed for necessary
7 travel expenses for each meeting attended. The mileage expense
8 fixed by the county board of commissioners shall not exceed the
9 mileage reimbursement as determined by the state officers compen-
10 sation commission. A board member shall not receive more than
11 ~~one~~ 1 per diem payment per day regardless of the number of
12 meetings scheduled by the board for that day. ~~The department~~
13 ~~shall reimburse the county pursuant to departmental regulations~~
14 ~~for county allotments and matchable expenses for per diem pay-~~
15 ~~ments as well as the number of meetings per year.~~

16 Sec. 226. (1) ~~Each county~~ A community mental health
17 ~~board~~ SERVICES PROGRAM shall DO ALL OF THE FOLLOWING:

18 (a) Annually ~~examine and evaluate~~ CONDUCT A NEEDS ASSESS-
19 MENT TO DETERMINE the mental health needs of THE RESIDENTS OF the
20 county or counties it represents and ~~the~~ IDENTIFY public and
21 nonpublic services necessary to meet those needs. ~~Information~~
22 ~~and data concerning the mental health needs of the developmen-~~
23 ~~tally disabled, mentally ill adults, and emotionally disturbed~~
24 ~~children shall be reported to the department in accordance with~~
25 ~~procedures, and at a time, established by the department, along~~
26 ~~with plans to meet identified needs.~~ The ~~report~~ NEEDS
27 ASSESSMENT shall ~~reflect~~ INCLUDE information gathered from all

1 appropriate sources, including COMMUNITY MENTAL HEALTH WAITING
2 LIST DATA AND school districts providing special education
3 services. ~~The department shall submit to the Legislature an~~
4 ~~annual needs assessment report which incorporates the information~~
5 ~~received from the community mental health boards. Under this~~
6 ~~subsection the report shall include an estimate of the cost of~~
7 ~~meeting all identified needs.~~

8 (b) ~~Review~~ ANNUALLY REVIEW and ~~approve an~~ SUBMIT TO THE
9 DEPARTMENT A NEEDS ASSESSMENT REPORT, annual plan, and ~~budget~~
10 REQUEST FOR NEW FUNDS for the ~~county~~ COMMUNITY MENTAL HEALTH
11 SERVICES program. The format and documentation of the NEEDS
12 ASSESSMENT, annual plan, and ~~budget~~ REQUEST FOR NEW FUNDS shall
13 be specified by the department.

14 (c) IN THE CASE OF A COUNTY COMMUNITY MENTAL HEALTH AGENCY,
15 AT THE REQUEST OF THE COUNTY OR COUNTIES OBTAIN APPROVAL OF ITS
16 NEEDS ASSESSMENT, ANNUAL PLAN, AND REQUEST FOR NEW FUNDS FROM THE
17 BOARD OF COMMISSIONERS OF EACH PARTICIPATING COUNTY PRIOR TO SUB-
18 MISSION OF THE PLAN TO THE DEPARTMENT. IN THE CASE OF A COMMU-
19 NITY MENTAL HEALTH ENTITY OR COMMUNITY MENTAL HEALTH ORGANIZA-
20 TION, PROVIDE A COPY OF ITS NEEDS ASSESSMENT, ANNUAL PLAN, AND
21 REQUEST FOR NEW FUNDS TO THE BOARD OF COMMISSIONERS OF EACH
22 COUNTY CREATING THE ENTITY.

23 (D) ~~(c)~~ Submit the NEEDS ASSESSMENT, annual plan, and
24 ~~budget, after approval by each board of commissioners,~~ REQUEST
25 FOR NEW FUNDS to the department by ~~such~~ THE date ~~as is~~ speci-
26 fied by the department. ~~Such~~ THE submission ~~shall constitute~~

1 CONSTITUTES the ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
2 program's official application for NEW state funds.

3 (E) ~~(d)~~ Provide and advertise a public hearing on the
4 NEEDS ASSESSMENT, annual plan, and ~~budget~~ REQUEST FOR NEW FUNDS
5 before ~~submitting it~~ PROVIDING THEM to the county board of
6 commissioners.

7 (F) ~~(e)~~ Submit to each board of commissioners an annual
8 request for county funds to support the ~~county~~ program. ~~Such~~
9 THE request shall be in the form and at the time determined by
10 the board or boards of commissioners.

11 (G) ANNUALLY APPROVE THE COMMUNITY MENTAL HEALTH SERVICES
12 PROGRAM'S OPERATING BUDGET FOR THE YEAR. THE APPROVED OPERATING
13 BUDGET SHALL BE SUBMITTED FOR INFORMATIONAL PURPOSES TO THE
14 COUNTY BOARD OF COMMISSIONERS OF EACH PARTICIPATING COUNTY. IF
15 REQUESTED BY THE BOARD OF COMMISSIONERS OF A PARTICIPATING
16 COUNTY, A COUNTY COMMUNITY MENTAL HEALTH AGENCY SHALL SUBMIT A
17 COPY OF THE ANNUAL OPERATING BUDGET TO THE BOARD OF COMMISSIONERS
18 FOR REVIEW BEFORE THE COUNTY COMMUNITY MENTAL HEALTH BOARD
19 APPROVES THE BUDGET.

20 (H) ~~(f)~~ Take ~~such~~ THOSE actions ~~as~~ it considers neces-
21 sary and appropriate to secure private, federal, and other public
22 funds to help support the ~~county~~ COMMUNITY MENTAL HEALTH
23 SERVICES program.

24 (I) ~~(g)~~ Approve and authorize all contracts for the
25 ~~providing~~ PROVISION of services.

1 (J) ~~(h)~~ Review and evaluate the quality, effectiveness,
2 and efficiency of services being provided by the ~~county~~
3 COMMUNITY MENTAL HEALTH SERVICES program.

4 (K) ~~(i)~~ Appoint ~~a~~ AN EXECUTIVE director of the ~~county~~
5 community mental health SERVICES program who shall meet standards
6 of training and experience established by the department. ~~The~~
7 ~~department shall establish standards for individuals who are phy-~~
8 ~~sicians and for individuals who are not physicians. The choice~~
9 ~~of appointing a physician or nonphysician as county director~~
10 ~~shall rest with the board, and in making such choice, the board~~
11 ~~shall consider the duties that the county director can be~~
12 ~~expected to perform. Any individual who may reasonably be~~
13 ~~regarded as serving as a county director on the date that this~~
14 ~~chapter becomes effective shall be exempt from the standards of~~
15 ~~training and experience referred to in this chapter.~~

16 (L) ~~(j)~~ Establish general policy guidelines within which
17 the ~~county~~ EXECUTIVE director shall execute the ~~county~~
18 COMMUNITY MENTAL HEALTH SERVICES program.

19 (2) A COMMUNITY MENTAL HEALTH SERVICES PROGRAM MAY DO ALL OF
20 THE FOLLOWING:

21 (A) IF CONSIDERED APPROPRIATE BY THE EXECUTIVE DIRECTOR,
22 ISSUE A VOUCHER TO A RECIPIENT IN ACCORDANCE WITH THE RECIPIENT'S
23 PLAN OF SERVICES DEVELOPED BY THE COMMUNITY MENTAL HEALTH SERV-
24 ICES PROGRAM.

25 (B) IF CONSIDERED APPROPRIATE BY THE EXECUTIVE DIRECTOR,
26 PROVIDE FUNDING FOR THE PURPOSE OF ESTABLISHING REVOLVING LOANS
27 TO ASSIST RECIPIENTS OF PUBLIC MENTAL HEALTH SERVICES TO ACQUIRE

1 OR MAINTAIN AFFORDABLE HOUSING. FUNDING UNDER THIS SUBDIVISION
2 SHALL ONLY BE PROVIDED THROUGH AN AGREEMENT WITH A NONPROFIT
3 FIDUCIARY.

4 Sec. 226a. ~~(1) Each county~~ A community mental health
5 SERVICES PROGRAM board may create a special fund account ~~with~~
6 ~~the approval of the county board of commissioners,~~ to receive
7 recipient fees and third-party reimbursements for services
8 rendered. IN THE CASE OF A COUNTY COMMUNITY MENTAL HEALTH
9 AGENCY, APPROVAL OF THE BOARD OF COMMISSIONERS OF EACH PARTICI-
10 PATING COUNTY IS NECESSARY BEFORE CREATION OF THE SPECIAL FUND
11 ACCOUNT. Receipts into the fund shall be recorded by source of
12 payment and by type of service rendered, and a report regarding
13 this information shall be submitted ~~monthly~~ ON A QUARTERLY
14 BASIS to the department. Money in the special fund account shall
15 be used only for matching state funds or for the provision of
16 community mental health services. ~~exclusive of capital~~
17 ~~expenditures. All expenditures of special account funds shall be~~
18 ~~made in conformance with the priorities established in the~~
19 ~~department's approved program policy guidelines for community~~
20 ~~mental health programs. The total amount of fees and reimburse-~~
21 ~~ments collected shall be transmitted to the state for deposit in~~
22 ~~a special state fund entitled the community mental health grant~~
23 ~~fund, to be used for assisting counties to finance community~~
24 ~~mental health services pursuant to chapter 3 of this act.~~

25 ~~(2) The department shall conduct annually an evaluation of~~
26 ~~this section which shall include, but not be limited to:~~

1 ~~(a) The impact of this section upon county appropriations to~~
2 ~~community mental health boards.~~

3 ~~(b) The equity of the distribution of state community mental~~
4 ~~health funds throughout the state.~~

5 ~~(c) The equity of availability of mental health services~~
6 ~~provided by community mental health boards within the state, at~~
7 ~~least for the most severely disabled.~~

8 ~~(d) The impact of this section upon recipients who are~~
9 ~~unable to contribute toward the payment of services through fees~~
10 ~~or third party reimbursements.~~

11 SEC. 227. COMMUNITY MENTAL HEALTH SERVICES PROGRAMS SHALL
12 SUPPORT TRANSITION SERVICES FROM SCHOOL TO COMMUNITY. FUNDING TO
13 SUPPORT THE TRANSITION EFFORT IS THE RESPONSIBILITY OF THE EDUCA-
14 TIONAL SYSTEM. THE TRANSITION SERVICES SHALL SUPPORT INDIVIDUALS
15 WITH DISABILITIES IN PROGRESSING FROM EDUCATIONAL SYSTEMS TO
16 WORKING AND LIVING IN THE COMMUNITY. COMMUNITY MENTAL HEALTH
17 SERVICES PROGRAMS SHALL COLLABORATE WITH INTERMEDIATE SCHOOL DIS-
18 TRICTS AND LOCAL SCHOOL DISTRICTS IN HELPING TO ACHIEVE TRANSI-
19 TION GOALS FOR INDIVIDUALS BEGINNING NO LATER THAN AGE 16.

20 Sec. 228. Subject to the provisions of this chapter, a
21 board is authorized to enter into contracts for the purchase of
22 mental health services AND PROPERTY LEASE ARRANGEMENTS with pri-
23 vate or public agencies OR INDIVIDUALS. ~~Contracts~~ A BOARD may
24 ~~be entered~~ ENTER into A CONTRACT with any facility or entity of
25 the department with the approval of the director of the
26 department.

1 Sec. 230. The EXECUTIVE director of a ~~county~~ community
2 mental health SERVICES program shall function as the chief
3 executive and administrative officer of the ~~county~~ program and
4 shall execute and administer ~~such county~~ THE program in accord-
5 ance with the approved ANNUAL plan and OPERATING budget, the gen-
6 eral policy guidelines established by the board, the applicable
7 ~~county~~ GOVERNMENTAL procedures and regulations, and the provi-
8 sions of this ~~chapter~~ ACT. THE EXECUTIVE DIRECTOR HAS THE
9 AUTHORITY AND RESPONSIBILITY FOR SUPERVISING ALL EMPLOYEES. The
10 terms and conditions of ~~a county~~ AN EXECUTIVE director's
11 employment, including tenure of service, shall be as mutually
12 agreed to by the board and the ~~county~~ EXECUTIVE director and
13 shall be specified in ~~writing~~ A WRITTEN CONTRACT.

14 Sec. 232. The department shall review each ~~county's~~
15 COMMUNITY MENTAL HEALTH SERVICES PROGRAM'S annual ~~plan~~ CONTRACT
16 and OPERATING budget and approve or disapprove ~~it~~ STATE FUNDING
17 in whole or in part. Eligibility for state financial support
18 shall be contingent upon an approved ~~plan~~ CONTRACT and
19 OPERATING budget AND CERTIFICATION IN ACCORDANCE WITH
20 SECTION 232A. Prior to the beginning of each state fiscal year,
21 the department shall allocate state appropriated funds to the
22 ~~county~~ COMMUNITY MENTAL HEALTH SERVICE programs in accordance
23 with the approved ~~plans~~ CONTRACTS and budgets. ~~If the amount~~
24 ~~of state appropriated funds is insufficient to fund all approved~~
25 ~~plans and budgets, the department shall establish the manner by~~
26 ~~which the appropriated funds are to be divided among the county~~
27 ~~programs.~~

1 SEC. 232A. (1) THE DEPARTMENT SHALL PROMULGATE RULES TO
2 ESTABLISH STANDARDS FOR CERTIFICATION AND THE CERTIFICATION
3 REVIEW PROCESS FOR COMMUNITY MENTAL HEALTH SERVICES PROGRAMS.
4 THE STANDARDS SHALL INCLUDE BUT NOT BE LIMITED TO ALL OF THE
5 FOLLOWING:

6 (A) MATTERS OF GOVERNANCE, RESOURCE MANAGEMENT, QUALITY
7 IMPROVEMENT, SERVICE DELIVERY, AND SAFETY MANAGEMENT.

8 (B) PROMOTION AND PROTECTION OF RECIPIENT RIGHTS.

9 (2) AFTER REVIEWING A COMMUNITY MENTAL HEALTH SERVICES PRO-
10 GRAM, THE DEPARTMENT SHALL NOTIFY A PROGRAM THAT SUBSTANTIALLY
11 COMPLIES WITH THE STANDARDS ESTABLISHED UNDER THIS SECTION THAT
12 IT IS CERTIFIED BY THE DEPARTMENT.

13 (3) THE DEPARTMENT MAY WAIVE THE CERTIFICATION REVIEW IN
14 WHOLE OR IN PART AND CONSIDER THE COMMUNITY MENTAL HEALTH SERV-
15 ICES PROGRAM TO BE IN SUBSTANTIAL COMPLIANCE WITH THE STANDARDS
16 ESTABLISHED UNDER THIS SECTION IF THE PROGRAM HAS RECEIVED
17 ACCREDITATION FROM AN ACCREDITING ORGANIZATION RECOGNIZED BY THE
18 DEPARTMENT THAT INCLUDES REVIEW OF MATTERS DESCRIBED IN
19 SUBSECTION (1)(A).

20 (4) IF THE DEPARTMENT CERTIFIES A COMMUNITY MENTAL HEALTH
21 SERVICES PROGRAM DESPITE SOME ITEMS OF NONCOMPLIANCE WITH THE
22 STANDARDS ESTABLISHED UNDER THIS SECTION, THE NOTICE OF CERTIFI-
23 CATION SHALL IDENTIFY THE ITEMS OF NONCOMPLIANCE AND THE PROGRAM
24 SHALL CORRECT THE ITEMS OF NONCOMPLIANCE. THE DEPARTMENT SHALL
25 REQUIRE THE COMMUNITY MENTAL HEALTH BOARD TO SUBMIT A PLAN TO
26 CORRECT ITEMS OF NONCOMPLIANCE BEFORE RECERTIFICATION OR SOONER
27 AT THE DISCRETION OF THE DEPARTMENT.

1 (5) CERTIFICATION IS EFFECTIVE FOR 3 YEARS AND IS NOT
2 TRANSFERABLE. REQUESTS FOR RECERTIFICATION SHALL BE SUBMITTED TO
3 THE DEPARTMENT AT LEAST 6 MONTHS BEFORE THE EXPIRATION OF
4 CERTIFICATION. CERTIFICATION REMAINS IN EFFECT AFTER THE SUBMIS-
5 SION OF A RENEWAL REQUEST UNTIL THE DEPARTMENT CONDUCTS A REVIEW
6 AND MAKES A REDETERMINATION.

7 (6) THE DEPARTMENT SHALL CONDUCT AN ANNUAL REVIEW OF EACH
8 COMMUNITY MENTAL HEALTH SERVICES PROGRAM'S RECIPIENT RIGHTS
9 SYSTEM TO ENSURE COMPLIANCE WITH STANDARDS ESTABLISHED UNDER SUB-
10 SECTION (1)(B). AN ON-SITE REVIEW SHALL BE CONDUCTED ONCE EVERY
11 3 YEARS.

12 (7) THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL
13 PROMPTLY NOTIFY THE DEPARTMENT OF ANY CHANGES THAT MAY AFFECT
14 CONTINUED CERTIFICATION.

15 (8) THE DEPARTMENT MAY DENY CERTIFICATION IF THE COMMUNITY
16 MENTAL HEALTH SERVICES PROGRAM CANNOT DEMONSTRATE SUBSTANTIAL
17 COMPLIANCE WITH THE STANDARDS ESTABLISHED UNDER THIS SECTION.

18 (9) IN LIEU OF DENYING CERTIFICATION, THE DEPARTMENT MAY
19 ISSUE A PROVISIONAL CERTIFICATION FOR A PERIOD OF UP TO 6 MONTHS
20 UPON RECEIVING A PLAN OF CORRECTION SUBMITTED BY THE COMMUNITY
21 MENTAL HEALTH SERVICES BOARD. THE DEPARTMENT SHALL PROVIDE A
22 COPY OF THE REVIEW AND THE APPROVED PLAN OF CORRECTION TO THE
23 BOARD OF COMMISSIONERS OF EACH COUNTY THAT ESTABLISHED THE COUNTY
24 COMMUNITY MENTAL HEALTH AGENCY OR CREATED THE COMMUNITY MENTAL
25 HEALTH ORGANIZATION OR COMMUNITY MENTAL HEALTH SERVICES ENTITY.
26 A PROVISIONAL CERTIFICATION MAY BE EXTENDED, BUT THE ENTIRE
27 PROVISIONAL PERIOD SHALL NOT EXCEED 1 YEAR. THE DEPARTMENT SHALL

1 CONDUCT A REVIEW TO DETERMINE THE COMMUNITY MENTAL HEALTH
2 SERVICES PROGRAM'S COMPLIANCE WITH THE PLAN OF CORRECTION AT
3 LEAST 30 DAYS BEFORE THE EXPIRATION OF THE PROVISIONAL
4 CERTIFICATION. A PROVISIONAL CERTIFICATION AUTOMATICALLY EXPIRES
5 EITHER ON ITS ORIGINAL EXPIRATION DATE OR THE EXPIRATION DATE OF
6 THE EXTENSION GRANTED.

7 (10) IF A COMMUNITY MENTAL HEALTH SERVICES PROGRAM IS DENIED
8 CERTIFICATION, FAILS TO COMPLY WITH AN APPROVED PLAN OF CORREC-
9 TION BEFORE THE EXPIRATION OF A PROVISIONAL CERTIFICATION, OR
10 FAILS TO COMPLY SUBSTANTIALLY WITH THE STANDARDS ESTABLISHED
11 UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE COMMUNITY
12 MENTAL HEALTH SERVICES BOARD AND THE BOARD OF COMMISSIONERS OF
13 EACH COUNTY THAT ESTABLISHED THE AGENCY OR CREATED THE ORGANIZA-
14 TION OR ENTITY OF THE DEPARTMENT'S INTENTION TO SUSPEND, DENY, OR
15 REVOKE CERTIFICATION. THE NOTICE SHALL BE SENT BY CERTIFIED MAIL
16 AND SHALL SET FORTH THE PARTICULAR REASONS FOR THE PROPOSED
17 ACTION AND OFFER AN OPPORTUNITY FOR A HEARING WITH THE DIRECTOR
18 OF THE DEPARTMENT'S DIVISION THAT MANAGES CONTRACTS WITH COMMU-
19 NITY MENTAL HEALTH SERVICES PROGRAMS. IF IT DESIRES A HEARING,
20 THE COMMUNITY MENTAL HEALTH SERVICES BOARD SHALL REQUEST IT IN
21 WRITING WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE. THE DEPART-
22 MENT SHALL HOLD THE HEARING NOT LESS THAN 30 DAYS FROM THE DATE
23 IT RECEIVES THE REQUEST FOR A HEARING.

24 (11) THE DIRECTOR OF THE DEPARTMENT'S DIVISION THAT MANAGES
25 CONTRACTS WITH COMMUNITY MENTAL HEALTH SERVICES PROGRAMS SHALL
26 MAKE A DECISION REGARDING CERTIFICATION BASED ON EVIDENCE
27 PRESENTED AT THE HEARING OR ON THE DEFAULT OF THE COMMUNITY

1 MENTAL HEALTH SERVICES BOARD. A COPY OF THE DECISION SHALL BE
2 SENT BY CERTIFIED MAIL WITHIN 45 DAYS AFTER THE CLOSE OF THE
3 HEARING TO THE COMMUNITY MENTAL HEALTH SERVICES BOARD AND TO THE
4 BOARD OF COMMISSIONERS OF EACH COUNTY THAT ESTABLISHED THE AGENCY
5 OR CREATED THE ORGANIZATION OR ENTITY.

6 (12) A COMMUNITY MENTAL HEALTH SERVICES BOARD MAY APPEAL A
7 DECISION MADE UNDER SUBSECTION (11) AS PROVIDED IN CHAPTER 4 OF
8 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE
9 PUBLIC ACTS OF 1969, BEING SECTIONS 24.271 TO 24.287 OF THE
10 MICHIGAN COMPILED LAWS.

11 (13) DURING THE PERIOD OF CERTIFICATION, THE DEPARTMENT MAY
12 CONDUCT AN UNANNOUNCED REVIEW OF A CERTIFIED COMMUNITY MENTAL
13 HEALTH SERVICES PROGRAM. THE DEPARTMENT SHALL CONDUCT AN UNAN-
14 NOUNCED REVIEW OF A PROGRAM IN RESPONSE TO INFORMATION THAT
15 RAISES QUESTIONS REGARDING RECIPIENT HEALTH OR SAFETY.

16 (14) IF A COMMUNITY MENTAL HEALTH SERVICES PROGRAM FAILS TO
17 OBTAIN CERTIFICATION AS A RESULT OF THE DEPARTMENT'S REVIEW, HAS
18 EXHAUSTED THE TIME PERIOD FOR PROVISIONAL CERTIFICATION, AND IS
19 NOT ENGAGED IN THE PROCESS OF APPEAL OR APPEAL HAS BEEN UNSUC-
20 CESSFUL, THE DEPARTMENT MAY DO BOTH OF THE FOLLOWING:

21 (A) CANCEL THE STATE FUNDING COMMITMENT TO THE COMMUNITY
22 MENTAL HEALTH SERVICES BOARD.

23 (B) UTILIZE THE FUNDS PREVIOUSLY PROVIDED TO THE COMMUNITY
24 MENTAL HEALTH SERVICES BOARD TO SECURE SERVICES FROM OTHER PRO-
25 VIDERS OF MENTAL HEALTH SERVICES THAT THE DEPARTMENT HAS DETER-
26 MINED CAN OPERATE IN SUBSTANTIAL COMPLIANCE WITH THE STANDARDS

1 ESTABLISHED UNDER THIS SECTION AND CONTINUE THE DELIVERY OF
2 SERVICES WITHIN THE COUNTY OR COUNTIES.

3 (15) IF STATE FUNDING IS CANCELED UNDER SUBSECTION (14) AND
4 THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM IS AN ENTITY CREATED
5 UNDER SECTION 205, THE COUNTY OR COUNTIES THAT CREATED THE ENTITY
6 ARE FINANCIALLY LIABLE ONLY FOR THE LOCAL MATCH FORMULA ESTAB-
7 LISHED FOR THE ENTITY UNDER CHAPTER 3. IF STATE FUNDING IS
8 CANCELED UNDER SUBSECTION (14) AND THE COMMUNITY MENTAL HEALTH
9 SERVICES PROGRAM IS A COUNTY COMMUNITY MENTAL HEALTH AGENCY OR A
10 COMMUNITY MENTAL HEALTH ORGANIZATION, THE COUNTY OR COUNTIES THAT
11 ESTABLISHED THE AGENCY ARE FINANCIALLY LIABLE FOR LOCAL MATCH FOR
12 ALL SERVICES CONTRACTUALLY OR DIRECTLY PROVIDED BY THE DEPARTMENT
13 TO RESIDENTS OF THE COUNTY OR COUNTIES IN ACCORDANCE WITH CHAPTER
14 3.

15 (16) THE DEPARTMENT SHALL NOT UTILIZE THE CERTIFICATION PRO-
16 CESS UNDER THIS SECTION TO REQUIRE A COMMUNITY MENTAL HEALTH
17 SERVICES PROGRAM TO BECOME A COMMUNITY MENTAL HEALTH ENTITY.
18 COMMUNITY MENTAL HEALTH ENTITY STATUS IS VOLUNTARY AS PROVIDED IN
19 SECTION 205.

20 Sec. 234. In reviewing a ~~county~~ COMMUNITY MENTAL HEALTH
21 SERVICES program's ~~annual plan~~ PROPOSED CONTRACT and OPERATING
22 budget for the purpose of approval or disapproval, in whole or in
23 part, or in making an allocation of state appropriated funds to a
24 ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program, the department
25 shall consider:

26 (a) The state's mental health needs.

1 (b) The county's mental health needs.

2 (c) The state's need for a reasonable degree of statewide
3 standardization and control of services.

4 (d) The ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program's
5 need for a reasonable degree of flexibility and freedom to
6 design, staff, and administer services in a manner that the
7 ~~county~~ program ~~deems~~ CONSIDERS appropriate to its situation.

8 (e) The ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program's
9 need for a reasonable expectation that services meeting an essen-
10 tial mental health need and ~~which~~ THAT are appropriately
11 designed and executed will receive continuing state financial
12 support within the constraint of state funds actually appropri-
13 ated by the legislature.

14 (f) The demonstrated relevancy, quality, effectiveness, and
15 efficiency of the ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
16 program's services.

17 (g) The adequacy of the ~~county~~ COMMUNITY MENTAL HEALTH
18 SERVICES program's accounting for the expenditure of state
19 funds.

20 Sec. 236. At intervals during the year, the department
21 shall review the expenditures of each ~~county~~ COMMUNITY MENTAL
22 HEALTH SERVICES program, and if the department determines that
23 funds that have been allocated to a ~~county~~ program are not
24 needed by that ~~county~~ program, the department may, with the
25 concurrence of the board, withdraw ~~such~~ THE funds. Funds ~~—~~
26 so withdrawn ~~—~~ may be reallocated by the department to other
27 ~~county~~ COMMUNITY MENTAL HEALTH SERVICES programs. The

1 department may withdraw funds that have been allocated to a
2 ~~county~~ program when ~~such~~ THE funds are being expended in a
3 manner not provided for in the approved ANNUAL plan and OPERATING
4 budget.

5 Sec. 238. If ~~a county~~ AN EXECUTIVE director or a board
6 specifically so requests, any action by the department involving
7 a disapproval of a ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
8 program's ~~annual plan~~ PROPOSED CONTRACT and OPERATING budget,
9 in whole or in part, or involving an allocation of funds to a
10 ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program or a withdrawal
11 of funds from a ~~county~~ COMMUNITY MENTAL HEALTH SERVICES pro-
12 gram, shall be reviewed in consultation with the affected
13 ~~county~~ EXECUTIVE director or board before ~~such~~ THE action
14 ~~shall be~~ IS considered a final action. In any ~~such~~ consulta-
15 tion, the representative of the ~~county~~ COMMUNITY MENTAL HEALTH
16 SERVICES program shall be afforded a full opportunity to present
17 his OR HER position.

18 Sec. 240. All expenditures by a ~~county~~ COMMUNITY MENTAL
19 HEALTH SERVICES program necessary to execute ~~such county~~ THE
20 program shall be eligible for state financial support, except
21 those excluded under section 242. Expenditures necessary to
22 ~~execute a county~~ CARRY OUT THE RESPONSIBILITIES AND DUTIES OF A
23 COMMUNITY MENTAL HEALTH SERVICES program ~~shall~~ include expendi-
24 tures for staff training and staff education and for mental
25 health research when ~~such~~ THOSE expenditures are necessary or
26 appropriate to the execution of ~~a county~~ THE program.

1 SEC. 241. EXPENDITURES FOR THE MAINTENANCE AND REPAIR OF
2 ADULT FOSTER CARE FACILITIES OWNED OR LEASED BY A COMMUNITY
3 MENTAL HEALTH SERVICES PROGRAM ARE ELIGIBLE FOR STATE FINANCIAL
4 SUPPORT. EXPENSES INCURRED IN RENOVATING AN ADULT FOSTER CARE
5 FACILITY THAT IS LEASED OR OWNED BY A COMMUNITY MENTAL HEALTH
6 SERVICES PROGRAM ARE ALSO ELIGIBLE FOR STATE FINANCIAL SUPPORT IF
7 THE EXPENSES ARE INCURRED FOR 1 OR MORE OF THE FOLLOWING
8 PURPOSES:

9 (A) TO CORRECT PHYSICAL PLANT DEFICIENCIES CITED BY THE
10 DEPARTMENT OF SOCIAL SERVICES UNDER STATE LICENSING RULES.

11 (B) TO PURCHASE AND INSTALL FIRE SAFETY EQUIPMENT OR MAKE
12 PHYSICAL PLANT CHANGES THAT MEASURABLY ASSURE A REASONABLE LEVEL
13 OF FIRE PROTECTION FOR ALL OF THE RESIDENTS WHO LIVE IN THE
14 FACILITY.

15 (C) TO CORRECT PHYSICAL PLANT DEFICIENCIES IN ACCORDANCE
16 WITH STATE AND FEDERAL CERTIFICATION STANDARDS.

17 (D) TO RESTORE THE FACILITY TO ITS PRELEASE CONDITION, IF
18 THE FACILITY'S LEASE CONTAINS A CLAUSE STIPULATING THAT RENOVATION IS THE LESSEE'S RESPONSIBILITY AT THE TIME THE LEASE EXPIRES
19 OR IS TERMINATED.

21 Sec. 242. The following expenditures by a ~~county~~
22 COMMUNITY MENTAL HEALTH SERVICES program are not eligible for
23 state financial support EXCEPT AS PERMITTED BY THE DEPARTMENT:

24 (a) The construction, purchase, remodeling, or any similar
25 capital cost of a building or facility, except that such cost
26 ~~shall be~~ IS eligible for state financial support on an annual

1 expense basis in an amount equal to a fair rental value of the
2 space or building being utilized.

3 (b) The capital cost of equipment or similar items in an
4 amount greater than that established by the department.

5 (c) Any cost item that does not represent or constitute a
6 real or actual expenditure by the ~~county~~ COMMUNITY MENTAL
7 HEALTH SERVICES program EXCEPT TO EXPEND FROM A RESERVE ACCOUNT
8 ESTABLISHED BY THE BOARD, AS PROVIDED IN SECTION 205.

9 (d) That part of any expenditure that is obviously and mani-
10 festly extravagant in relation to its specific objective and
11 context.

12 (e) Any category of expenditure or any portion of any cate-
13 gory of expenditure, ~~whose~~ THE ineligibility OF WHICH the
14 department ~~shall determine~~ DETERMINES is necessary and appro-
15 priate to assure the reasonable use of state funds or to assure a
16 legitimate interest of the state, and which determination is in
17 accord with the intent and provisions of this chapter. This sub-
18 division shall be effectuated by ~~officially adopted~~ rules ~~of~~
19 PROMULGATED BY the department.

20 Sec. 244. In addition to the duties and powers elsewhere
21 provided in this chapter, the department shall DO ALL OF THE
22 FOLLOWING:

23 (a) Seek to develop and establish arrangements and proce-
24 dures for the effective coordination and integration of state
25 services and ~~county program services~~ COMMUNITY MENTAL HEALTH
26 SERVICES PROGRAMS.

1 (b) Review and evaluate, at times and in a manner the
 2 department considers appropriate, the relevancy, quality,
 3 effectiveness, and efficiency of ~~county~~ COMMUNITY MENTAL HEALTH
 4 SERVICES programs. In developing or operating its ~~county~~
 5 COMMUNITY MENTAL HEALTH SERVICES program information system, the
 6 department shall not collect any information that would make it
 7 possible to identify by name any individual who receives a serv-
 8 ice from a ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program.

9 ~~Any such information in the possession of the department before~~
 10 ~~August 6, 1974, shall not be disclosed by the department.~~

11 ~~(c) Provide consultative services to counties seeking to~~
 12 ~~establish a county program, and provide other consultative serv-~~
 13 ~~ices to county programs as the department considers feasible and~~
 14 ~~appropriate.~~

15 (C) ~~(d) Establish, or approve a county program's establish-~~
 16 ~~ment of, financial liability schedules, provisions, and proce-~~
 17 ~~dures for persons who receive mental health services from county~~
 18 ~~programs, in accordance with section 844. A person AN~~
 19 INDIVIDUAL shall not be denied a ~~county~~ COMMUNITY MENTAL HEALTH
 20 SERVICES program service because ~~of an inability to pay for the~~
 21 ~~service on the part of those AN INDIVIDUAL who are IS finan-~~
 22 cially liable IS UNABLE TO PAY FOR THE SERVICE.

23 (D) ~~(e)~~ Audit, or cause to be audited, the expenditure of
 24 state funds by ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
 25 programs. Copies of audit reports shall be forwarded to the
 26 auditor general.

1 (E) ~~(f)~~ Promulgate ~~such~~ rules ~~, pursuant to the~~
2 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
3 ~~Acts of 1969, as amended, being sections 24.201 to 24.328 of the~~
4 ~~Michigan Compiled Laws, as~~ it considers necessary or appropriate
5 to implement the objectives and provisions of this chapter.

6 ~~(g) Before planning and locating a specialized residential~~
7 ~~service as defined in section 300, including a residential home,~~
8 ~~in a city, village, or township, seek the advice and consultation~~
9 ~~of the governing body of the city, village, or township in which~~
10 ~~the specialized residential service is proposed to be located.~~

11 Sec. 245. The directors of ~~adult and children's~~ psychiat-
12 ric hospitals operated by the department may grant staff privi-
13 leges to psychiatrists employed by or under contract ~~to a full~~
14 ~~management board pursuant to~~ WITH A COMMUNITY MENTAL HEALTH
15 SERVICES PROGRAM UNDER guidelines established by the hospital's
16 governing body if requested by the ~~county~~ EXECUTIVE director of
17 the ~~full management board~~ PROGRAM. Staff privileges authorized
18 under this ~~subsection shall~~ SECTION include the admission,
19 treatment, and discharge of patients admitted from ~~the board's~~
20 THAT PROGRAM'S service area. The credentials committee of the
21 medical staff of the hospital shall review the credentials of all
22 applicants for staff privileges and recommend to the hospital
23 director the approval or disapproval of the granting of staff
24 privileges to the applicant. Denial of a request for staff privi-
25 leges may be appealed by the ~~county~~ EXECUTIVE director to the
26 hospital's governing board.

1 Sec. 302. (1) Except as otherwise provided in this chapter
 2 and in subsection (2), a county ~~shall be~~ IS financially liable
 3 for 10% of the net cost of any service that is provided by the
 4 department, directly or by contract, to a resident of that
 5 county.

6 (2) This section ~~shall~~ DOES not apply to the following:

7 (a) Family support subsidies established under section 156.

8 (b) A service provided to an individual under criminal sen-
 9 tence to a state prison.

10 ~~(c) Community placement services provided by the department~~
 11 ~~to an individual before June 30, 1983.~~

12 ~~(3) The amounts excepted pursuant to subsection (2)(c) for~~
 13 ~~the period from April 1, 1981 through June 30, 1983 shall be con-~~
 14 ~~tingent upon passage of a supplemental appropriation by the leg-~~
 15 ~~islature to the extent the supplemental appropriation covers the~~
 16 ~~exception.~~

17 (3) ~~(4)~~ If 2 or more existing county programs merge pursu-
 18 ant to section 219, the state shall pay 100% of administrative
 19 costs approved by the department for the newly created community
 20 mental health ~~board~~ SERVICES PROGRAM for 3 years after the date
 21 of merger.

22 (4) IF A COUNTY DEMONSTRATES AN INABILITY TO MEET ITS LOCAL
 23 MATCH OBLIGATION DUE TO FINANCIAL HARDSHIP, THE DEPARTMENT MAY DO
 24 EITHER OF THE FOLLOWING:

25 (A) ACCEPT A JOINT PLAN OF CORRECTION FROM THE COUNTY AND
 26 ITS COMMUNITY MENTAL HEALTH SERVICES PROGRAM THAT ENSURES FULL
 27 PAYMENT OVER AN EXTENDED PERIOD OF TIME.

1 (B) WAIVE A PORTION OF THE COUNTY'S OBLIGATION BASED ON
2 HARDSHIP CRITERIA ESTABLISHED BY THE DEPARTMENT.

3 Sec. 306. For the purpose of section 302, ~~the~~ AN
4 individual's county of residence ~~shall be determined as follows~~
5 IS THE COUNTY IN WHICH THE INDIVIDUAL MAINTAINED HIS OR HER PRI-
6 MARY PLACE OF RESIDENCE AT THE TIME HE OR SHE ENTERED 1 OF THE
7 FOLLOWING:

8 (a) ~~If the individual is receiving a service that includes~~
9 ~~nighttime sleeping accommodations, the county of residence shall~~
10 ~~be that county in which the individual maintained his primary~~
11 ~~place of residence at the time he entered the department~~
12 ~~facility~~ A DEPENDENT LIVING SETTING.

13 (b) ~~If the individual is receiving a service that does not~~
14 ~~include nighttime sleeping accommodations, the county of resi-~~
15 ~~dence shall be that county in which the individual maintains his~~
16 ~~primary place of residence~~ A BOARDING SCHOOL.

17 (C) A FACILITY.

18 Sec. 307. Financial and ~~service~~ PROGRAMMATIC responsibil-
19 ity for PROVIDING services to an individual whose county of resi-
20 dence has been determined under section 306 may be transferred
21 from 1 county to another if both ~~county~~ COMMUNITY MENTAL HEALTH
22 SERVICES programs, the individual or his or her plenary guardian,
23 if applicable, and the department agree to the transfer. If a
24 transfer is made pursuant to this section, the department shall
25 transfer from the original county of residence to the new county
26 of residence 100% of the cost of the services agreed upon by both
27 ~~county~~ COMMUNITY MENTAL HEALTH SERVICES programs. County

1 matching funds are not required for services to an individual
 2 whose county of residence has been transferred under this
 3 section.

4 Sec. 308. (1) Except as otherwise provided in this chapter
 5 and subsection (2), and subject to the constraint of funds actu-
 6 ally appropriated by the legislature for such purpose, the state
 7 shall pay ~~90%~~ THE FOLLOWING PERCENTAGE of the annual net cost
 8 of a ~~county~~ community mental health SERVICES program that is
 9 established and administered in accordance with chapter 2: ~~—~~

10 (A) IN THE CASE OF A COUNTY COMMUNITY MENTAL HEALTH AGENCY
 11 OR COMMUNITY MENTAL HEALTH ORGANIZATION, 90%.

12 (B) IN THE CASE OF A COMMUNITY MENTAL HEALTH ENTITY, 95%.

13 (2) The state shall pay the family support subsidies estab-
 14 lished under section 156.

15 Sec. 309. ~~(1)~~ Except as otherwise provided in this chap-
 16 ter, and subject to the constraint of funds actually appropriated
 17 by the legislature, the state shall pay all of the costs of a
 18 specialized residential service ~~which~~ THAT are eligible for
 19 state financial support and approved by the department and
 20 ~~which~~ THAT are not otherwise paid for by federal funds, state
 21 funds, or reimbursements from persons and insurers who are finan-
 22 cially liable for the cost of services, and ~~which~~ THAT meet all
 23 of the following conditions:

24 (a) The service is established and administered under the
 25 authority of the board of the ~~county~~ COMMUNITY MENTAL HEALTH
 26 SERVICES program and in accordance with chapter 2.

1 (b) The service did not exist as part of the ~~county~~
2 COMMUNITY MENTAL HEALTH SERVICES program before March 31, 1981.

3 (c) The service is approved by the department and operated
4 in conformance with departmental policies and guidelines govern-
5 ing specialized residential programs.

6 ~~(2) The department shall annually conduct an evaluation of~~
7 ~~the impact of this section to determine its effect on the level~~
8 ~~of development and operation of specialized residential programs~~
9 ~~by county community mental health boards.~~

10 Sec. 310. For the purpose of section 308, ~~net cost~~ "NET
11 COST" means:

12 (a) ~~After the expiration of section 226a or for~~ FOR a
13 ~~county~~ community mental health board that does not create a
14 special fund account for receiving fees and third-party reim-
15 bursements as provided in section 226a, the total of all ~~county~~
16 COMMUNITY MENTAL HEALTH SERVICES program expenditures eligible
17 for state financial support and approved by the department ~~and~~
18 ~~which~~ THAT are not otherwise paid for by federal funds, state
19 funds, or reimbursements from persons and insurers who are finan-
20 cially liable for the cost of services.

21 (b) ~~Until the expiration of section 226a~~ EXCEPT AS PRO-
22 VIDED IN SUBDIVISION (A), the total of all ~~county~~ COMMUNITY
23 MENTAL HEALTH SERVICES program expenditures eligible for state
24 financial support and approved by the department ~~which~~ THAT are
25 not otherwise paid for by federal funds or state funds. ~~The~~
26 ~~department shall make grants from the community mental health~~
27 ~~grant fund to those community mental health services boards which~~

~~1 have established the special fund account in accordance with
2 section 226a to assist those boards in providing local funding
3 for the county program. The department shall make grants to a
4 board in the same fiscal year that the funds were received by the
5 department pursuant to section 226a, only to those boards which
6 transmit those reimbursements collected in a special fund created
7 under section 226a, and in an amount at least equal to the lesser
8 amount of either:~~

~~9 (i) A base amount, which is defined as an amount equal to
10 100% of the reimbursements collected by the board from finan-
11 cially liable persons and insurers in the fiscal year ending
12 September 30, 1980, plus not less than 60% of the difference
13 between the amount of fees and reimbursements collected and
14 transmitted in the current fiscal year and the base amount;~~

~~15 (ii) The amount of fees and reimbursements transmitted by
16 the board to the community mental health grant fund in the cur-
17 rent fiscal year.~~

~~18 If funds received by the state in any fiscal year are not disbursed
19 to a board in the same fiscal year, the balance shall be carried over
20 for disbursement in a subsequent fiscal year, to be used in the
21 manner specified in this section.~~

22 Sec. 312. ~~When~~ IF a ~~county~~ COMMUNITY MENTAL HEALTH
23 SERVICES program represents 2 or more counties, the amount of
24 county funds necessary to support the ~~county~~ program shall be
25 paid by each county in proportion to its population, except that,
26 with the consent of each county's board of commissioners, a
27 different method of county cost sharing may be utilized.

1 Sec. 314. In each county having a ~~county~~ COMMUNITY MENTAL
2 HEALTH SERVICES program, the county's annual appropriation for
3 the cost of services provided by the state and for the county's
4 cost of supporting the ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
5 program shall be made as a single appropriation ~~and~~ to the
6 board of the ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program.
7 ~~The county's annual single appropriation may be made by line~~
8 ~~item.~~

9 Sec. 316. The expenditure of a county's tax funds to pay
10 for services provided by the state or to pay the county's cost of
11 supporting a ~~county~~ COMMUNITY MENTAL HEALTH SERVICES program
12 may be made from the county's general tax fund or from the pro-
13 ceeds of a special tax established for such purpose.

14 Sec. 320. Nothing in this chapter ~~shall prevent the~~
15 ~~county~~ PREVENTS A COMMUNITY MENTAL HEALTH SERVICES program from
16 allocating available local funds in excess of ~~+10% of their~~
17 ~~approved program budget~~ THE REQUIRED LOCAL MATCH.

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

20 ~~(a) "Department" means the department of mental health or~~
21 ~~its official designee.~~

22 ~~(b) "Hospital" means a facility, or portion of a facility,~~
23 ~~for the inpatient treatment of persons who are mentally ill.~~

24 ~~(c) "Director" means the chief officer of a hospital or a~~
25 ~~person authorized by a director to act on his or her behalf.~~

26 ~~(d) "Hospitalization" or "hospitalize" means to provide~~
27 ~~treatment for a person as an inpatient in a hospital.~~

1 ~~(e) "Treatment" means care, diagnostic, and therapeutic~~
2 ~~services including the administration of drugs and any other~~
3 ~~service for the treatment of an individual.~~

4 ~~(f) "Subject of a petition" means an individual asserted to~~
5 ~~require treatment, asserted not to require treatment, asserted to~~
6 ~~be legally incapacitated and in need of a guardian, asserted not~~
7 ~~to be legally incapacitated and in need of a guardian, or for~~
8 ~~whom an objection to a hospitalization pursuant to section 484 or~~
9 ~~498m has been made.~~

10 ~~(g) "Court" means the probate court for the county of resi-~~
11 ~~dence of the subject of a petition, or for the county in which~~
12 ~~the subject of a petition was found.~~

13 ~~(h) "Physician" means a person licensed by the state to~~
14 ~~engage in the practice of medicine or osteopathic medicine and~~
15 ~~surgery under article 15 of the Public Health Code, Act No. 368~~
16 ~~of the Public Acts of 1978, being sections 333.1610 to 333.18038~~
17 ~~of the Michigan Compiled Laws.~~

18 ~~(i) "Psychiatrist" means a physician who devotes a substan-~~
19 ~~tial portion of his or her time to the practice of psychiatry and~~
20 ~~who has practiced psychiatry for 1 continuous year out of the 3~~
21 ~~years immediately preceding his or her certification of any indi-~~
22 ~~vidual under this chapter.~~

23 ~~(j) "Psychologist" means a person licensed, with other than~~
24 ~~a limited license, to engage in the practice of psychology under~~
25 ~~article 15 of Act No. 368 of the Public Acts of 1978, as amended,~~
26 ~~being sections 333.1610 to 333.18038 of the Michigan Compiled~~
27 ~~Laws, and who devotes a substantial portion of his or her time to~~

1 ~~the diagnosis and treatment of individuals with mental or~~
2 ~~emotional disorders.~~

3 ~~(k) "Certificate" or "certification" means the written con-~~
4 ~~clusion and statements of a physician or a psychologist that an~~
5 ~~individual is a person requiring treatment, together with the~~
6 ~~information and opinions, in reasonable detail, which underlie~~
7 ~~the conclusion, on the form prescribed by the department or on a~~
8 ~~substantially similar form.~~

9 ~~(l) "Discharge" means the official release of an individual~~
10 ~~from a hospital by action of the hospital or a court.~~

11 ~~(m) "Protective custody" means the temporary custody of an~~
12 ~~individual by a peace officer with or without the individual's~~
13 ~~consent for the purpose of protecting that individual's health~~
14 ~~and safety, or the health and safety of the public, and for the~~
15 ~~purpose of transporting the individual if the individual appears,~~
16 ~~in the judgment of the peace officer, to be a person requiring~~
17 ~~treatment or is a person requiring treatment. Protective custody~~
18 ~~is civil in nature and is not to be construed as an arrest.~~

19 ~~(n) "Community mental health emergency service unit" means a~~
20 ~~service component of a county program, as defined in section~~
21 ~~200(a), which component has been certified for the rendering of~~
22 ~~services under section 427 by the department according to rules~~
23 ~~promulgated by the department, pursuant to section 114.~~

24 ~~(o) "Peace officer" means an officer of the department of~~
25 ~~state police or of a law enforcement agency of a county, town-~~
26 ~~ship, city, or village who is responsible for the prevention and~~
27 ~~detection of crime and enforcement of the criminal laws of this~~

~~1 state, and for the purpose of sections 408 and 427 shall also~~
~~2 include an officer of the United States secret service with the~~
~~3 officer's consent and a police officer of the veterans' adminis-~~
~~4 tration in the performance of the officer's duty on a veterans'~~
~~5 administration medical center reservation.~~

~~6 (p) "Community mental health board director" means the~~
~~7 director of a community mental health board or his or her~~
~~8 designee.~~

9 (A) "CLINICAL CERTIFICATE" MEANS THE WRITTEN CONCLUSION AND
10 STATEMENTS OF A PHYSICIAN OR A FULLY LICENSED PSYCHOLOGIST THAT
11 AN INDIVIDUAL IS A PERSON REQUIRING TREATMENT, TOGETHER WITH THE
12 INFORMATION AND OPINIONS, IN REASONABLE DETAIL, THAT UNDERLIE THE
13 CONCLUSION, ON THE FORM PRESCRIBED BY THE DEPARTMENT OR ON A SUB-
14 STANTIALLY SIMILAR FORM.

15 (B) "COMPETENT CLINICAL OPINION" MEANS THE CLINICAL JUDGMENT
16 OF A PHYSICIAN, PSYCHIATRIST, OR FULLY LICENSED PSYCHOLOGIST.

17 (C) "COURT" MEANS THE PROBATE COURT FOR THE COUNTY OF RESI-
18 DENCE OF THE SUBJECT OF A PETITION, OR FOR THE COUNTY IN WHICH
19 THE SUBJECT OF A PETITION WAS FOUND.

20 (D) "FULLY LICENSED PSYCHOLOGIST" MEANS A DOCTORAL LEVEL
21 PSYCHOLOGIST LICENSED UNDER SECTION 18223(1) OF THE PUBLIC HEALTH
22 CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION
23 333.18223 OF THE MICHIGAN COMPILED LAWS.

24 (E) "INVOLUNTARY MENTAL HEALTH TREATMENT" MEANS
25 COURT-ORDERED HOSPITALIZATION, ALTERNATIVE TREATMENT, OR COMBINED
26 HOSPITALIZATION AND ALTERNATIVE TREATMENT AS DESCRIBED IN SECTION
27 468.

1 (F) "MENTAL ILLNESS" MEANS A SUBSTANTIAL DISORDER OF THOUGHT
2 OR MOOD THAT SIGNIFICANTLY IMPAIRS JUDGMENT, BEHAVIOR, CAPACITY
3 TO RECOGNIZE REALITY, OR ABILITY TO COPE WITH THE ORDINARY
4 DEMANDS OF LIFE.

5 (G) "PREADMISSION SCREENING UNIT" MEANS A SERVICE COMPONENT
6 OF A COMMUNITY MENTAL HEALTH SERVICES PROGRAM, WHICH COMPONENT
7 HAS BEEN CERTIFIED FOR THE RENDERING OF SERVICES UNDER SECTION
8 427 BY THE DEPARTMENT ACCORDING TO RULES PROMULGATED BY THE
9 DEPARTMENT UNDER SECTION 114.

10 (H) "SUBJECT OF A PETITION" MEANS AN INDIVIDUAL REGARDING
11 WHOM A PETITION HAS BEEN FILED WITH THE COURT ASSERTING THAT THE
12 INDIVIDUAL IS OR IS NOT A PERSON REQUIRING TREATMENT OR FOR WHOM
13 AN OBJECTION TO INVOLUNTARY MENTAL HEALTH TREATMENT HAS BEEN MADE
14 UNDER SECTION 484.

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

17 (a) ~~A person~~ AN INDIVIDUAL who ~~is mentally ill~~ HAS
18 MENTAL ILLNESS, and who as a result of that mental illness can
19 reasonably be expected within the near future to intentionally or
20 unintentionally seriously physically injure himself OR HERSELF or
21 another ~~person~~ INDIVIDUAL, and who has engaged in an act or
22 acts or made significant threats that are substantially support-
23 ive of the expectation.

24 (b) ~~A person~~ AN INDIVIDUAL who ~~is mentally ill~~ HAS
25 MENTAL ILLNESS, and who as a result of that mental illness is
26 unable to attend to those of his OR HER basic physical needs such
27 as food, clothing, or shelter that must be attended to in order

1 for ~~him~~ THE INDIVIDUAL to avoid serious harm in the near
2 future, and who has demonstrated that inability by failing to
3 attend to those basic physical needs.

4 (c) ~~A person~~ AN INDIVIDUAL who ~~is mentally ill~~ HAS
5 MENTAL ILLNESS, whose judgment is so impaired that he OR SHE is
6 unable to understand his OR HER need for treatment and whose con-
7 tinued behavior as the result of this mental illness can reason-
8 ably be expected, on the basis of competent ~~medical~~ CLINICAL
9 opinion, to result in significant physical harm to himself OR
10 HERSELF or others. This ~~person~~ INDIVIDUAL shall ~~be~~
11 ~~hospitalized~~ RECEIVE INVOLUNTARY MENTAL HEALTH TREATMENT
12 INITIALLY only under the provisions of sections 434 through 438
13 of this act.

14 (2) AN INDIVIDUAL WHOSE MENTAL PROCESSES HAVE BEEN WEAKENED
15 OR IMPAIRED BY A DEMENTIA, AN INDIVIDUAL WITH A PRIMARY DIAGNOSIS
16 OF EPILEPSY, OR AN INDIVIDUAL WITH ALCOHOLISM OR OTHER DRUG
17 DEPENDENCE IS NOT A PERSON REQUIRING TREATMENT UNDER THIS CHAPTER
18 UNLESS THE INDIVIDUAL ALSO MEETS THE CRITERIA SPECIFIED IN SUB-
19 SECTION (1). AN INDIVIDUAL DESCRIBED IN THIS SUBSECTION MAY BE
20 HOSPITALIZED UNDER THE INFORMAL OR FORMAL VOLUNTARY HOSPITALIZA-
21 TION PROVISIONS OF THIS CHAPTER IF HE OR SHE IS CONSIDERED CLINI-
22 CALLY SUITABLE FOR HOSPITALIZATION BY THE HOSPITAL DIRECTOR.

23 Sec. 403. ~~Persons~~ INDIVIDUALS shall ~~be hospitalized~~
24 RECEIVE INVOLUNTARY MENTAL HEALTH TREATMENT only pursuant to the
25 provisions of this act. ~~, except as provided in Act No. 241 of~~
26 ~~the Public Acts of 1970, being section 335.231 of the Michigan~~
27 ~~Compiled Laws.~~

1 Sec. 406. ~~When~~ IF an individual asserted to be a person
2 requiring treatment is ~~deemed~~ CONSIDERED by a hospital to be
3 suitable for informal or formal voluntary hospitalization, the
4 hospital shall offer the individual the opportunity to request or
5 make application for hospitalization as an informal or formal
6 voluntary patient. If the individual is ~~so~~ VOLUNTARILY hospi-
7 talized, the HOSPITAL director ~~of the hospital~~ shall inform
8 the court, and the court shall dismiss any pending proceeding for
9 admission unless it finds that dismissal would not be in the best
10 interest of the individual or the public.

11 Sec. 407. A patient in a department hospital may be trans-
12 ferred to any other hospital, or to any facility of the depart-
13 ment ~~which~~ THAT is not a hospital, if the transfer would not be
14 detrimental to the patient and if BOTH THE COMMUNITY MENTAL
15 HEALTH SERVICES PROGRAM AND the department ~~approves~~ APPROVE the
16 transfer. The patient and ~~his~~ THE PATIENT'S guardian or ~~his~~
17 nearest relative shall be notified at least 7 days prior to any
18 transfer, except that a transfer may be effected earlier if it is
19 necessitated by an emergency. In addition, the patient may des-
20 ignate up to 2 other persons to receive the notice. If a trans-
21 fer is effected due to an emergency, the required notices shall
22 be given as soon as possible, but not later than 24 hours after
23 the transfer. If the patient ~~his~~ OR THE PATIENT'S guardian
24 ~~or~~ ~~his~~ nearest relative objects to ~~such~~ THE transfer, the
25 department shall provide an opportunity to appeal the transfer.

1 Sec. 408. (1) ~~A person~~ AN INDIVIDUAL is subject to being
2 returned to a hospital if both of the following circumstances
3 exist:

4 (a) The ~~person~~ INDIVIDUAL was admitted to the hospital by
5 judicial order.

6 (b) The ~~person~~ INDIVIDUAL has left the hospital without
7 authorization, or has refused a lawful request to return to the
8 hospital while on an authorized leave or other authorized absence
9 from the hospital.

10 (2) The HOSPITAL director ~~of a hospital~~ may notify peace
11 officers that ~~a person~~ AN INDIVIDUAL is subject to being
12 returned to the hospital. Upon notification by the HOSPITAL
13 director, ~~of the hospital,~~ a peace officer shall take the
14 ~~person~~ INDIVIDUAL into protective custody and return the
15 ~~person~~ INDIVIDUAL to the hospital unless contrary directions
16 have been given by the HOSPITAL director. ~~of the hospital.~~

17 (3) An opportunity for appeal, and notice of that opportuni-
18 ty, shall be provided to ~~a person~~ AN INDIVIDUAL who objects to
19 being returned from any authorized leave in excess of 10 days.

20 SEC. 409. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
21 (2), AN INDIVIDUAL SEEKING EITHER INFORMAL OR FORMAL VOLUNTARY
22 ADMISSION TO A HOSPITAL OPERATED BY THE DEPARTMENT OR A HOSPITAL
23 UNDER CONTRACT WITH A COMMUNITY MENTAL HEALTH SERVICES PROGRAM
24 MAY BE CONSIDERED FOR ADMISSION BY THE HOSPITAL ONLY AFTER AUTHO-
25 RIZATION BY A COMMUNITY MENTAL HEALTH SERVICES PREADMISSION
26 SCREENING UNIT.

1 (2) AUTHORIZATION BY A PREADMISSION SCREENING UNIT IS NOT
2 REQUIRED IF AN INDIVIDUAL MAKES PRIVATE ARRANGEMENTS FOR
3 INPATIENT SERVICES DELIVERED BY A FACILITY LICENSED UNDER SECTION
4 137. IF AN INDIVIDUAL IS ADMITTED UNDER THIS SUBSECTION, ANY
5 FINANCIAL OBLIGATION FOR THE HOSPITALIZATION SHALL BE SATISFIED
6 FROM FUNDING SOURCES OTHER THAN THE COMMUNITY MENTAL HEALTH SERV-
7 ICES PROGRAM, THE DEPARTMENT, OR OTHER STATE FUNDING.

8 Sec. 411. ~~An~~ SUBJECT TO SECTION 409, AN individual 18
9 years of age or over may be hospitalized as an informal voluntary
10 patient if he OR SHE requests hospitalization as an informal vol-
11 untary patient and if the HOSPITAL director ~~of the hospital~~
12 ~~deems him~~ CONSIDERS THE INDIVIDUAL TO BE clinically suitable for
13 that form of hospitalization. Unless the hospital requires that
14 the request be made in writing, the individual may make the
15 request orally.

16 Sec. 415. ~~An~~ SUBJECT TO SECTION 409, AN individual 18
17 years of age or over may be hospitalized as a formal voluntary
18 patient if the individual executes an application for hospital-
19 ization as a formal voluntary patient OR THE INDIVIDUAL ASSENTS
20 AND THE FULL GUARDIAN OF THE INDIVIDUAL OR THE LIMITED GUARDIAN
21 WITH AUTHORITY TO ADMIT EXECUTES AN APPLICATION FOR
22 HOSPITALIZATION and if the HOSPITAL director ~~of the hospital~~
23 ~~deems~~ CONSIDERS the individual to be clinically suitable for
24 that form of hospitalization.

25 Sec. 416. The formal application shall contain in large
26 type and simple language the substance of sections ~~417 to~~ 419
27 AND 420. Upon hospitalization, the rights set forth in the

1 application shall be orally communicated to the patient and to
2 the ~~person~~ INDIVIDUAL who executed the application. In addi-
3 tion, a copy of the application shall be given to ~~each of the~~
4 ~~forementioned persons~~ THE PATIENT AND THE INDIVIDUAL WHO EXE-
5 CUTED THE APPLICATION and to ~~one~~ 1 other ~~person~~ INDIVIDUAL
6 designated by the patient.

7 Sec. 420. If a written notice of termination of hospital-
8 ization is given to a hospital under section 419, if the notice
9 is not withdrawn, and if the HOSPITAL director determines that
10 the patient is a person requiring treatment as defined in section
11 401 and should remain in the hospital, the HOSPITAL director or
12 other suitable person shall within 3 days, excluding Sundays and
13 holidays, after the hospital's receipt of the notice, file an
14 application with the court ~~which~~ THAT complies with
15 section 423. The application shall be accompanied by 1 CLINICAL
16 certificate executed by a psychiatrist and 1 CLINICAL certificate
17 executed by either a physician or a FULLY LICENSED psychologist.
18 If an application is filed, the hospital may continue hospital-
19 ization of the patient pending hearings convened pursuant to sec-
20 tions ~~450~~ 451 to 465.

21 SEC. 422. (1) EACH COMMUNITY MENTAL HEALTH SERVICES PROGRAM
22 SHALL DESIGNATE THE PREADMISSION SCREENING UNIT THAT WILL BE PRO-
23 VIDING SERVICES UNDER THIS CHAPTER AND EACH HOSPITAL WITH WHOM IT
24 HAS A CONTRACT TO RECEIVE AND DETAIN INDIVIDUALS UNDER SECTION
25 427 OR 428. INFORMATION AS TO ADDRESS AND TELEPHONE NUMBER OF
26 THE PREADMISSION SCREENING UNIT AND HOSPITALS SHALL BE PROVIDED
27 TO LAW ENFORCEMENT AGENCIES SERVING INDIVIDUALS WITHIN THE COUNTY

1 OR COUNTIES COMPOSING THE COMMUNITY MENTAL HEALTH SERVICES
2 PROGRAM.

3 (2) EACH COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL
4 NOTIFY THE DEPARTMENT AND THE STATE COURT ADMINISTRATIVE OFFICE
5 OF THE PREADMISSION SCREENING UNIT AND HOSPITALS DESIGNATED UNDER
6 SUBSECTION (1).

7 (3) THE DEPARTMENT SHALL DESIGNATE THOSE HOSPITALS THAT ARE
8 REQUIRED TO RECEIVE AND DETAIN INDIVIDUALS PRESENTED FOR EXAMINA-
9 TION PURSUANT TO SECTION 427 OR 428.

10 Sec. 423. A hospital designated by the department ~~shall,~~
11 ~~and any other hospital may,~~ OR BY A COMMUNITY MENTAL HEALTH
12 SERVICES PROGRAM SHALL hospitalize an individual presented to the
13 hospital, pending ~~certification~~ RECEIPT OF A CLINICAL
14 CERTIFICATE by a psychiatrist STATING THAT THE INDIVIDUAL IS A
15 PERSON REQUIRING TREATMENT, if an application, ~~and~~ a
16 physician's or a FULLY LICENSED psychologist's CLINICAL
17 certificate, ~~for hospitalization of the individual~~ AND AN
18 AUTHORIZATION BY A PREADMISSION SCREENING UNIT have been
19 executed. ~~The department shall designate those department hos-~~
20 ~~pitals that are required to hospitalize individuals pursuant to~~
21 ~~this section.~~

22 Sec. 425. A physician's or a FULLY LICENSED psychologist's
23 CLINICAL certificate required for hospitalization of an individ-
24 ual under section 423 shall have been executed after personal
25 examination of the individual named in the CLINICAL certificate,
26 and within 72 hours before the time the CLINICAL certificate is
27 filed with the hospital. The CLINICAL certificate may be

1 executed by any physician or FULLY LICENSED psychologist,
2 including a staff member or employee of the hospital with which
3 the application and CLINICAL certificate are filed.

4 Sec. 426. Upon delivery to a peace officer of an applica-
5 tion and physician's or FULLY LICENSED psychologist's CLINICAL
6 certificate, the peace officer shall take the individual named in
7 the application into protective custody and transport the indi-
8 vidual immediately to ~~a~~ THE PREADMISSION SCREENING UNIT OR hos-
9 pital DESIGNATED BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM
10 for hospitalization ~~pursuant to~~ UNDER section 423. IF THE
11 INDIVIDUAL TAKEN TO A PREADMISSION SCREENING UNIT MEETS THE
12 REQUIREMENTS FOR HOSPITALIZATION, THEN UNLESS THE COMMUNITY
13 MENTAL HEALTH SERVICES PROGRAM MAKES OTHER ARRANGEMENTS, THE
14 PEACE OFFICER SHALL TAKE THE INDIVIDUAL TO A HOSPITAL DESIGNATED
15 BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM. TRANSPORTATION
16 TO ANOTHER HOSPITAL DUE TO A TRANSFER IS THE RESPONSIBILITY OF
17 THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM.

18 Sec. 427. (1) If a peace officer observes an individual
19 conducting himself or herself in a manner ~~which~~ THAT causes the
20 peace officer to reasonably believe that the individual is a
21 person requiring treatment as defined in section 401, the peace
22 officer may take the individual into protective custody and
23 transport the individual to a ~~hospital~~ PREADMISSION SCREENING
24 UNIT DESIGNATED BY A COMMUNITY MENTAL HEALTH SERVICES PROGRAM for
25 examination ~~pursuant to~~ UNDER section 429 ~~or may notify the~~
26 ~~community mental health emergency service unit~~ OR for ~~the~~
27 ~~purpose of requesting~~ mental health intervention services. ~~If~~

1 ~~notified, the community mental health emergency service~~ THE
2 PREADMISSION SCREENING unit shall provide those mental health
3 intervention services ~~which~~ THAT it considers appropriate
4 ~~unless the individual declines the services. If the individual~~
5 ~~declines the services, the peace officer shall immediately trans-~~
6 ~~port the individual to a hospital. These services may be pro-~~
7 ~~vided at a site mutually agreed upon by the peace officer and the~~
8 ~~community mental health emergency service unit or at the site of~~
9 ~~the community mental health emergency service unit~~ OR SHALL PRO-
10 VIDE AN EXAMINATION UNDER SECTION 429. THE PREADMISSION SCREEN-
11 ING SERVICES MAY BE PROVIDED AT THE SITE OF THE PREADMISSION
12 SCREENING UNIT OR AT A SITE DESIGNATED BY THE PREADMISSION
13 SCREENING UNIT. UPON ARRIVAL AT THE PREADMISSION SCREENING UNIT
14 OR SITE DESIGNATED BY THE PREADMISSION SCREENING UNIT, THE PEACE
15 OFFICER SHALL EXECUTE AN APPLICATION FOR HOSPITALIZATION OF THE
16 INDIVIDUAL. In the course of providing services, the ~~community~~
17 ~~mental health emergency service~~ PREADMISSION SCREENING unit may
18 provide advice and consultation to the peace officer, which may
19 include a recommendation to transport the individual to a hospi-
20 tal for examination pursuant to section 429, or to release the
21 individual from protective custody. However, ~~the peace officer~~
22 ~~is not constrained from exercising his or her reasonable~~
23 ~~judgment. If a peace officer determines that an individual shall~~
24 ~~be released from protective custody as a result of consultation~~
25 ~~with a community mental health emergency service~~ THE PREADMIS-
26 SION SCREENING unit ~~, the community mental health emergency~~
27 ~~service~~ SHALL ENSURE THAT AN EXAMINATION IS CONDUCTED BY A

1 PHYSICIAN OR FULLY LICENSED PSYCHOLOGIST PRIOR TO A
2 RECOMMENDATION TO RELEASE THE INDIVIDUAL. THE PREADMISSION
3 SCREENING unit shall ~~assure~~ ENSURE provision of follow-up coun-
4 seling and diagnostic and referral services ~~as~~ IF needed ~~7~~
5 ~~unless the individual declines the services. Upon arrival at the~~
6 ~~hospital, the peace officer shall execute an application for hos-~~
7 ~~pitalization of the individual~~ IF IT IS DETERMINED UNDER SECTION
8 429 THAT THE PERSON DOES NOT MEET THE REQUIREMENTS FOR
9 HOSPITALIZATION.

10 (2) A peace officer ~~shall~~ IS not ~~be~~ financially respon-
11 sible for the cost of care of an individual for whom a peace
12 officer has executed an application under subsection (1).

13 (3) A hospital receiving an individual pursuant to subsec-
14 tion (1) who has been ~~seen~~ REFERRED by a community mental
15 health ~~emergency service~~ SERVICES PROGRAM'S PREADMISSION
16 SCREENING unit shall notify that unit of the results of an exami-
17 nation of that individual conducted by the hospital.

18 Sec. 427a. (1) ~~A~~ IF A peace officer ~~when~~ IS taking an
19 individual into protective custody, THE PEACE OFFICER may use
20 that kind and degree of force ~~which~~ THAT would be lawful ~~were~~
21 IF the peace officer WERE effecting an arrest for a misdemeanor
22 without a warrant. In taking the individual INTO CUSTODY, a
23 peace officer may take reasonable steps for self-protection. The
24 protective steps may include a pat down search of the individual
25 in the individual's immediate surroundings, but only to the
26 extent necessary to discover and seize a dangerous weapon ~~which~~
27 THAT may on that occasion be used against the officer or other

1 persons present. These protective steps shall be taken by the
2 peace officer before the individual is transported to a
3 ~~community mental health emergency service~~ PREADMISSION
4 SCREENING unit or a hospital DESIGNATED BY THE COMMUNITY MENTAL
5 HEALTH SERVICES PROGRAM.

6 (2) The taking of an individual to a community mental health
7 ~~emergency service~~ SERVICES PROGRAM'S PREADMISSION SCREENING
8 unit or a hospital under section 427 is not an arrest, but is a
9 taking into protective custody. The peace officer shall inform
10 the individual that he or she is being held in protective custody
11 and is not under arrest. An entry shall be made indicating the
12 date, time, and place of the taking, but the entry shall not be
13 treated for any purpose as an arrest or criminal record.

14 Sec. 428. If a person who executed an application for hos-
15 pitalization of an individual is unable after reasonable effort
16 to secure an examination of the individual by a physician or a
17 FULLY LICENSED psychologist, the application may be presented to
18 the court. If the court is satisfied that the application is
19 reasonable and in full compliance with section 424, and that a
20 reasonable effort was made to secure an examination, the court
21 may order the individual to be examined ~~for certification at a~~
22 ~~hospital pursuant to section 429~~ AT A PREADMISSION SCREENING
23 UNIT DESIGNATED BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM.
24 If it ~~deems~~ CONSIDERS IT necessary, the court may also order a
25 peace officer to take the individual into protective custody and
26 transport the individual immediately to A PREADMISSION SCREENING
27 UNIT DESIGNATED BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM

1 FOR THE EXAMINATION AND POSSIBLE REFERRAL ON TO the hospital.

2 ~~for the examination.~~

3 Sec. 429. (1) A hospital designated ~~by the department~~
4 UNDER SECTION 422 shall ~~and any other hospital may,~~ receive
5 and detain an individual presented for examination ~~pursuant to~~
6 UNDER section 427 or 428 for not more than 24 hours. During that
7 time the individual shall be examined by a physician or a FULLY
8 LICENSED psychologist. If the examining physician or psycholo-
9 gist does not certify that the individual is a person requiring
10 treatment, the individual shall be released immediately. If the
11 examining physician or psychologist executes a CLINICAL certifi-
12 cate, the individual may be hospitalized ~~pursuant to~~ UNDER sec-
13 tion 423.

14 (2) ~~The department shall designate those department hospi-~~
15 ~~tals which are required to receive and detain individuals~~
16 ~~presented for examination pursuant to section 427 or 428.~~ IF A
17 PREADMISSION SCREENING UNIT PROVIDES AN EXAMINATION UNDER SECTION
18 427 OR 428, THE EXAMINATION SHALL BE CONDUCTED AS SOON AS POSSI-
19 BLE AFTER THE INDIVIDUAL ARRIVES AT THE PREADMISSION SCREENING
20 SITE, AND THE EXAMINATION SHALL BE COMPLETED WITHIN 2 HOURS.

21 Sec. 430. ~~When~~ IF a patient is hospitalized under section
22 423, the patient shall be examined by a psychiatrist as soon
23 after hospitalization as is practicable, but not later than 24
24 hours, excluding Sundays and holidays, after hospitalization.
25 The examining psychiatrist shall not be the same physician upon
26 whose CLINICAL certificate the patient was hospitalized. If the
27 psychiatrist does not certify that the patient is a person

1 requiring treatment, the patient shall be released immediately.
2 If the psychiatrist does certify that the patient is a person
3 requiring treatment, the patient's hospitalization may continue
4 pending hearings convened pursuant to sections ~~450~~ 451 to 465.

5 Sec. 431. (1) Within 24 hours ~~of a certification~~ AFTER
6 RECEIPT OF A CLINICAL CERTIFICATE by a psychiatrist pursuant to
7 section 430, the HOSPITAL director shall transmit a notice to the
8 court that the patient has been hospitalized. The notice shall
9 be accompanied by a copy of the application and copies of the 2
10 CLINICAL certificates ~~which~~ THAT were executed.

11 (2) A copy of the application, a copy of the 2 CLINICAL cer-
12 tificates, and a statement of the right of the patient to court
13 hearings ~~pursuant to~~ UNDER sections ~~450~~ 451 to 465 shall also
14 be given or mailed to the patient's nearest relative or guardian
15 and to his OR HER attorney.

16 (3) The patient shall be asked if he OR SHE desires that the
17 documents listed in subsection (2) be sent to any other persons,
18 and at least 2 of any persons ~~he~~ THE PATIENT designates shall
19 be sent the documents.

20 Sec. 434. (1) Any ~~person~~ INDIVIDUAL 18 years of age or
21 over may file with the court a petition ~~which~~ THAT asserts that
22 an individual is a person requiring treatment as defined in
23 section 401.

24 (2) The petition shall contain the facts ~~which~~ THAT are
25 the basis for the assertion, the names and addresses, if known,
26 of any witnesses to the facts, and, if known, the name and

1 address of the nearest relative or guardian, or, if none, a
2 friend, if known, of the individual.

3 (3) The petition shall be accompanied by the CLINICAL cer-
4 tificate of a physician or a FULLY LICENSED psychologist, unless
5 after reasonable effort the petitioner could not secure an
6 examination. If a CLINICAL certificate does not accompany the
7 petition, an affidavit setting forth the reasons an examination
8 could not be secured shall also be filed. The petition may also
9 be accompanied by a second CLINICAL certificate. If 2 CLINICAL
10 certificates accompany the petition, at least 1 CLINICAL certifi-
11 cate shall have been executed by a psychiatrist.

12 (4) Except as otherwise provided in section 455, a CLINICAL
13 certificate ~~which~~ THAT accompanies a petition shall have been
14 executed within 72 hours before the filing of the petition, and
15 after personal examination of the individual.

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

19 (2) If the petition is not accompanied by a CLINICAL certifi-
20 cate, and if the court is satisfied a reasonable effort was made
21 to secure an examination, the court shall order the individual to
22 be examined by a psychiatrist and either a physician or a FULLY
23 LICENSED psychologist.

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

1 (4) After any examination ordered under this section, the
2 examining physician or FULLY LICENSED psychologist shall either
3 transmit a CLINICAL certificate to the court or report to the
4 court that execution of a CLINICAL certificate is not warranted.

5 (5) If 1 examination was ordered and the examining physician
6 or FULLY LICENSED psychologist reports that execution of a
7 CLINICAL certificate is not warranted, or if 2 examinations were
8 ordered and 1 of the examining physicians or the FULLY LICENSED
9 psychologist reports that execution of a CLINICAL certificate is
10 not warranted, the court shall dismiss the petition or order the
11 individual to be examined by a psychiatrist, or if a psychiatrist
12 is not available, by a physician or FULLY LICENSED psychologist.
13 If a third examination report states that execution of a CLINICAL
14 certificate is not warranted, the court shall dismiss the
15 petition.

16 Sec. 436. If it appears to the court that the individual
17 will not comply with an order of examination under section 435,
18 the court may order a peace officer to take the individual into
19 protective custody and transport him OR HER to a PREADMISSION
20 SCREENING UNIT OR hospital DESIGNATED BY THE COMMUNITY MENTAL
21 HEALTH SERVICES PROGRAM or ~~other~~ TO ANOTHER suitable place for
22 the ordered examination or examinations.

23 Sec. 438. If it appears to the court that the individual
24 requires immediate ~~hospitalization~~ INVOLUNTARY MENTAL HEALTH
25 TREATMENT in order to prevent physical harm to himself or her-
26 self, or others, the court may order the individual hospitalized
27 and may order a peace officer to take the individual into

1 protective custody and transport the individual to ~~the hospital~~
2 A PREADMISSION SCREENING UNIT DESIGNATED BY THE COMMUNITY MENTAL
3 HEALTH SERVICES PROGRAM. IF THE PREADMISSION SCREENING UNIT
4 AUTHORIZES HOSPITALIZATION, THE PEACE OFFICER SHALL TRANSPORT THE
5 INDIVIDUAL TO A HOSPITAL DESIGNATED BY THE COMMUNITY MENTAL
6 HEALTH SERVICES PROGRAM, UNLESS OTHER ARRANGEMENTS ARE PROVIDED
7 BY THE PREADMISSION SCREENING UNIT. If the examinations and
8 CLINICAL certificates of the psychiatrist, and the physician or
9 the FULLY LICENSED psychologist, are not completed within 24
10 hours after hospitalization, the individual shall be released.

11 Sec. 448. (1) Not later than 12 hours after an individual
12 is hospitalized ~~pursuant to~~ UNDER section 423 or 438, the
13 HOSPITAL director shall ~~cause~~ ENSURE THAT the individual ~~to~~
14 ~~receive~~ RECEIVES ALL OF THE FOLLOWING:

15 (a) A copy of the application or petition ~~which~~ THAT
16 asserted that the individual is a person requiring treatment.

17 (b) A written statement explaining that the individual will
18 be examined by a psychiatrist within 24 hours after his or her
19 hospitalization, excluding Sundays and holidays.

20 ~~(c) A written statement in simple terms explaining the~~
21 ~~rights of the individual to a preliminary hearing pursuant to~~
22 ~~section 450, to be present at a preliminary hearing, and to be~~
23 ~~represented by legal counsel, if he or she is certified by the~~
24 ~~medical examiner or examiners as a person requiring treatment.~~

25 (C) ~~(d)~~ A written statement in simple terms explaining the
26 rights of the individual to a full court hearing pursuant to
27 sections 451 to 465, to be present at the hearing, to be

1 represented by legal counsel, to a jury trial, and to an
2 independent ~~medical~~ CLINICAL evaluation. ~~, if probable cause~~
3 ~~to believe that he or she is a person requiring treatment is~~
4 ~~established at the preliminary hearing.~~

5 (2) If the individual is unable to read or understand the
6 written materials, every effort shall be made to explain them to
7 him or her in a language he or she understands, and a note of the
8 explanation and by whom made shall be entered into his or her
9 patient record.

10 (3) ~~A person~~ AN INDIVIDUAL awaiting ~~either a preliminary~~
11 ~~hearing requested pursuant to section 450, or~~ a court hearing
12 mandated pursuant to section 452 ~~,~~ may sign a form provided by
13 the department accepting ~~chemotherapy~~ PSYCHOTROPIC DRUGS and
14 other treatment without having to consent to the hospitalization,
15 unless the HOSPITAL director ~~of the hospital~~ has reason to
16 believe the individual is not capable of giving informed consent
17 to treatment.

18 Sec. 449. The HOSPITAL director shall ~~cause~~ ENSURE THAT
19 an individual who is hospitalized pursuant to section 423 or 438
20 ~~to receive~~ RECEIVES a copy of each CLINICAL certificate exe-
21 cuted in connection with the individual's hospitalization. Each
22 CLINICAL certificate shall be delivered to the individual within
23 24 hours of either the CLINICAL certificate's completion or the
24 receipt of the CLINICAL certificate by the hospital.

25 Sec. 451. Court hearings ~~, other than preliminary~~
26 ~~hearings,~~ convened under authority of this chapter shall be
27 governed by sections ~~451~~ 452 to 465. ~~, except that those~~

~~1 sections shall not perforce be applicable to the court hearing~~
~~2 provided for under section 417.~~

3 Sec. 452. The court shall fix a date for every hearing con-
4 vened under this chapter. The hearing shall be convened prompt-
5 ly, but not more than 7 days, excluding Sundays and holidays,
6 after the court's receipt of any of the following:

7 (a) An application for hospitalization, which shall serve as
8 a petition for a determination that an individual is a person
9 requiring treatment, a CLINICAL certificate executed by a physi-
10 cian or a FULLY LICENSED psychologist, and a CLINICAL certificate
11 executed by a psychiatrist.

12 (b) A petition for a determination that an individual is a
13 person requiring treatment, a CLINICAL certificate executed by a
14 physician or a FULLY LICENSED psychologist, and a CLINICAL cer-
15 tificate executed by a psychiatrist.

16 (c) A petition for a determination that an individual con-
17 tinues to be a person requiring treatment and a CLINICAL certifi-
18 cate executed by a psychiatrist.

19 (d) A petition for discharge filed under section 484.

20 (e) A petition for discharge filed under section 485 and a
21 physician's or a FULLY LICENSED psychologist's ~~report~~ CLINICAL
22 CERTIFICATE.

23 ~~(f) A petition for a declaration of legal incapacity and~~
24 ~~the appointment of a guardian filed in conjunction with or in~~
25 ~~response to the documents described in subdivisions (a) to (e).~~

1 ~~(g) A petition for restoration to legal capacity and a~~
2 ~~termination of guardianship filed pursuant to section 493 and a~~
3 ~~physician's or a psychologist's report.~~

4 (F) ~~(h)~~ A demand or notification that a hearing ~~which~~
5 THAT has been temporarily deferred under section 455(5) be
6 convened.

7 Sec. 453. (1) The court shall cause notice of a petition
8 and of the time and place of any hearing to be given to the
9 subject of the petition, his OR HER attorney, the petitioner, the
10 prosecuting or other attorney provided for in section 457, the
11 HOSPITAL director of any hospital in which the subject of a peti-
12 tion is hospitalized, the spouse of the subject of the petition
13 if his or her whereabouts are known, the guardian, if any, of the
14 subject of the petition, and ~~such~~ other relatives or persons as
15 the court may determine. ~~Such notice~~ NOTICE shall be given at
16 the earliest practicable time and sufficiently in advance of the
17 hearing date to permit preparation for the hearing.

18 (2) Within 4 days of the court's receipt of the documents
19 described in section 452(b), the court shall cause the subject of
20 the petition to be given a copy of the petition, a copy of each
21 CLINICAL certificate executed in connection with the proceeding,
22 notice of ~~his~~ THE right to a full court hearing, notice of
23 ~~his~~ THE right to be present at the hearing, notice of ~~his~~ THE
24 right to be represented by legal counsel, notice of ~~his~~ THE
25 right to demand a jury trial, and notice of ~~his~~ THE right to an
26 independent ~~medical~~ CLINICAL evaluation.

1 Sec. 454. (1) Every individual who is the subject of a
2 petition is entitled to be represented by legal counsel.

3 (2) Unless an appearance has been entered on behalf of the
4 subject of a petition, the court shall, within 48 hours after its
5 receipt of any petition together with the other documents
6 required by section 452, appoint counsel to represent the subject
7 of the petition, except that if an individual has been hospital-
8 ized under section 423 or 438, counsel shall be appointed within
9 24 hours after the hospitalization.

10 (3) If, after consultation with appointed counsel, the
11 subject of a petition desires to waive his or her right to coun-
12 sel, he or she may do so by notifying the court in writing.

13 (4) If the subject of a petition prefers counsel other than
14 the initially appointed counsel, the preferred counsel agrees to
15 accept the appointment, and the court is notified of the prefer-
16 ence by the subject of the petition or the preferred counsel, the
17 court shall replace the initially appointed counsel with the pre-
18 ferred counsel.

19 (5) If the subject of a petition is indigent, the court
20 shall compensate appointed counsel from court funds in an amount
21 ~~which~~ THAT is reasonable and based upon time and expenses.

22 (6) The supreme court may, by court rule, establish the com-
23 pensation to be paid for counsel of indigents and may require
24 that counsel be appointed from a system or organization estab-
25 lished for the purpose of providing representation in proceedings
26 governed by this chapter.

1 (7) Legal counsel shall consult in person with the subject
2 of a petition at least 24 hours before the time set for a court
3 hearing.

4 (8) Legal counsel for the subject of a petition under sec-
5 tion 452(a) or (b) who is hospitalized pending the court hearing
6 shall consult in person with the individual not more than 72
7 hours, excluding Sundays and holidays, after the petition and 2
8 CLINICAL certificates have been filed with the court.

9 (9) After the consultation required in subsection (7) or
10 (8), counsel promptly shall file with the court a certificate
11 stating that he or she personally has seen and has consulted with
12 the subject of a petition as required by this section.

13 Sec. 455. (1) The subject of a petition has the right to be
14 present at all hearings. This right may be waived by a waiver of
15 attendance signed by the subject of a petition, witnessed by his
16 or her legal counsel, and filed with the court OR IT MAY BE
17 WAIVED IN OPEN COURT AT A SCHEDULED HEARING. THE SUBJECT'S RIGHT
18 TO BE PRESENT AT A HEARING IS CONSIDERED WAIVED BY THE SUBJECT'S
19 FAILURE TO ATTEND THE HEARING AFTER RECEIVING NOTICE REQUIRED BY
20 SECTION 453 AND ANY APPLICABLE COURT RULE, PROVIDING THE SUBJECT
21 HAS HAD AN OPPORTUNITY TO CONSULT WITH COUNSEL AS REQUIRED UNDER
22 SECTION 454. THE COURT MAY EXCLUDE THE SUBJECT FROM A HEARING IF
23 THE SUBJECT'S BEHAVIOR AT THE HEARING MAKES IT IMPOSSIBLE TO CON-
24 DUCT THE HEARING REASONABLY. THE COURT SHALL ENTER ON THE RECORD
25 ITS REASONS FOR EXCLUDING THE SUBJECT OF A PETITION FROM THE
26 HEARING. THE SUBJECT'S PRESENCE MAY BE WAIVED BY THE COURT IF
27 THERE IS TESTIMONY BY A PHYSICIAN OR FULLY LICENSED PSYCHOLOGIST

1 WHO HAS RECENTLY OBSERVED THE SUBJECT THAT THE SUBJECT'S
2 ATTENDANCE WOULD EXPOSE HIM OR HER TO SERIOUS RISK OF PHYSICAL OR
3 EMOTIONAL HARM.

4 (2) The subject of a petition under section 452(a) or (b)
5 who is hospitalized pending the court hearing, within 72 hours,
6 excluding Sundays and holidays, after the petition and CLINICAL
7 certificates have been filed with the court, shall meet with
8 legal counsel, a treatment team member assigned by the hospital
9 director, a person assigned by THE EXECUTIVE DIRECTOR OF the
10 ~~appropriate~~ RESPONSIBLE community mental health ~~board~~
11 ~~director~~ SERVICES PROGRAM, and, if possible, a person designated
12 by the subject of the petition, in order to be informed of all of
13 the following:

14 (a) The proposed plan of treatment in the hospital.

15 (b) The nature and possible consequences of commitment
16 procedures.

17 (c) The proposed plan of treatment in the community ~~—~~
18 CONSISTING OF either an alternative to hospitalization or a com-
19 bination of hospitalization and alternative treatment with hospi-
20 talization not to exceed 60 days.

21 (d) The right to request that the hearing be temporarily
22 deferred, with a continuing right to demand a hearing during the
23 deferral period. The deferral period shall be 60 days if the
24 ~~person~~ INDIVIDUAL chooses to remain hospitalized, or 90 days if
25 the ~~person~~ INDIVIDUAL chooses alternative treatment or a combi-
26 nation of hospitalization and alternative treatment.

1 (3) The person designated by the subject of the petition
2 under subsection (2) may be any person who is willing and able to
3 attend the meeting, including a representative of an advocacy
4 group or the recipient rights adviser of the hospital.

5 (4) The hospital in which the subject of a petition under
6 section 452(a) or (b) is hospitalized shall notify the partici-
7 pants of the meeting required by subsection (2).

8 (5) The subject of a petition under section 452(a) or (b)
9 who is hospitalized pending the court hearing may file with the
10 court a request to temporarily defer the hearing for not longer
11 than 60 days if the ~~person~~ INDIVIDUAL chooses to remain hospi-
12 talized, or 90 days if the ~~person~~ INDIVIDUAL chooses alterna-
13 tive treatment or a combination of hospitalization and alterna-
14 tive treatment. The request shall include a stipulation that the
15 individual agrees to remain hospitalized and to accept treatment
16 as may be prescribed for the deferral period, or to accept and
17 follow the proposed plan of treatment as described in subsection
18 (2)(c) for the deferral period, and further agrees that at any
19 time the individual may refuse treatment and demand a hearing
20 under section 452. The request to temporarily defer the hearing
21 shall be on a form provided by the department and signed by the
22 individual in the presence of his or her legal counsel and shall
23 be filed with the court by legal counsel.

24 (6) Upon receipt of the request and stipulation, the court
25 shall temporarily defer the hearing. During the deferral period,
26 both the original petition and the CLINICAL certificates ~~shall~~
27 remain valid. However, if the hearing is convened, the court may

1 require additional ~~certification~~ CLINICAL CERTIFICATES and
2 information from the provider. The court shall retain continuing
3 jurisdiction during the deferral period.

4 (7) Upon receipt of a copy of the request to temporarily
5 defer the hearing under subsection (5), if the individual has
6 agreed to remain hospitalized as described in subsection (2)(a)
7 or (c), the HOSPITAL director ~~of the hospital~~ shall treat the
8 individual as a formal voluntary patient without requiring the
9 individual to sign formal voluntary admission forms. If the
10 individual, at any time during the period in which the hearing is
11 being deferred, refuses the prescribed treatment or requests a
12 hearing, either in writing or orally, treatment shall cease, the
13 HOSPITALIZED individual shall remain hospitalized with the status
14 of the subject of a petition under section 452(a) or (b), and the
15 court shall be notified to convene a hearing under section
16 ~~452(h)~~ 452(F).

17 (8) Upon receipt of a copy of the request to temporarily
18 defer the hearing under subsection (5), if the individual has
19 agreed to participate in an alternative to hospitalization in the
20 community, the HOSPITAL director ~~of the hospital~~ shall release
21 the individual from the hospital to the alternative treatment
22 provider. If the individual, at any time during the deferral
23 period, refuses the prescribed treatment or requests a hearing,
24 either in writing or orally, treatment shall cease and the court
25 shall be notified to convene a hearing under section ~~452(h)~~
26 452(F). Upon notification, the court shall, if necessary, order
27 a peace officer to transport the individual to the hospital where

1 the individual shall remain until the hearing is convened. The
2 individual shall be given the status of the subject of a petition
3 under section 452(a) or (b).

4 (9) If the individual has remained hospitalized ~~as~~
5 ~~described in subsection (2)(a) or (c)~~ and if, not earlier than
6 14 days nor later than 7 days before the expiration of the defer-
7 ral period, the HOSPITAL director ~~of the hospital~~ believes that
8 the condition of the individual is such that he or she continues
9 to require treatment, and believes that the individual will not
10 agree to sign a formal voluntary admission request or is consid-
11 ered by the hospital not to be suitable for voluntary admission,
12 the HOSPITAL director shall notify the court to convene a hearing
13 under section ~~452(h)~~ 452(F).

14 (10) If the individual is participating in an alternative to
15 hospitalization in the community as described in subsection
16 (2)(c) and if, not earlier than 14 days nor later than 7 days
17 before the expiration of the deferral period, the EXECUTIVE
18 director of the ~~county~~ community mental health ~~board~~ SERVICES
19 PROGRAM responsible for the treatment ~~which~~ THAT is an alterna-
20 tive to hospitalization believes that the condition of the indi-
21 vidual is such that he or she continues to require treatment, and
22 believes that the individual will not agree to accept treatment
23 voluntarily or is considered by the alternative treatment program
24 provider not suitable for voluntary treatment, the EXECUTIVE
25 director shall notify the court to convene a hearing under sec-
26 tion ~~452(h)~~ 452(F).

1 Sec. 461. An individual may not be found to require
2 treatment unless at least 1 physician or FULLY LICENSED
3 psychologist who has personally examined that individual testi-
4 fies in person or by written deposition at the hearing. A writ-
5 ten deposition may be introduced as evidence at the hearing only
6 if the attorney for the subject of the petition was given the
7 opportunity to be present during the taking of the deposition and
8 to cross-examine the deponent. This testimony or deposition may
9 be waived by the subject of a petition. AN INDIVIDUAL MAY BE
10 FOUND TO REQUIRE TREATMENT EVEN IF THE PETITIONER DOES NOT TESTI-
11 FY, AS LONG AS THERE IS COMPETENT EVIDENCE FROM WHICH THE RELE-
12 VANT CRITERIA IN SECTION 401 CAN BE ESTABLISHED.

13 Sec. 462. (1) Requests for continuances for any reasonable
14 time shall be granted ~~to the subject of the petition~~ for good
15 cause.

16 (2) Unless the subject of a petition or his OR HER attorney
17 objects, the failure to timely notify a spouse, guardian, rela-
18 tive, or other person determined by the court to be entitled to
19 notice shall not be cause to adjourn or continue a hearing.

20 Sec. 463. (1) ~~The~~ IF REQUESTED BEFORE THE FIRST SCHEDULED
21 HEARING OR AT THE FIRST SCHEDULED HEARING BEFORE THE FIRST WIT-
22 NESS HAS BEEN SWORN ON AN APPLICATION OR PETITION, THE subject of
23 a petition in a hearing under this chapter has the right at his
24 or her own expense, or if indigent, at ~~the~~ PUBLIC expense, ~~of~~
25 ~~the state,~~ to secure an independent CLINICAL evaluation by a
26 physician or a FULLY LICENSED psychologist of his or her choice
27 relevant to whether he or she requires treatment, whether he or

1 she should be hospitalized or receive treatment other than
2 hospitalization, and whether he or she is of legal capacity.

3 (2) Compensation for an evaluation performed by a physician
4 or a FULLY LICENSED psychologist shall be in an amount ~~which~~
5 THAT is reasonable and based upon time and expenses.

6 (3) THE INDEPENDENT CLINICAL EVALUATION DESCRIBED IN THIS
7 SECTION IS FOR THE SOLE USE OF THE SUBJECT OF THE PETITION. THE
8 INDEPENDENT CLINICAL EVALUATION OR THE TESTIMONY OF THE INDIVID-
9 UAL PERFORMING THE EVALUATION SHALL NOT BE INTRODUCED INTO EVI-
10 DENCE WITHOUT THE CONSENT OF THE SUBJECT OF THE PETITION.

11 Sec. 464. Copies of court orders issued pursuant to this
12 chapter shall be given to the individual who is the subject of
13 the order, to ~~his~~ THE INDIVIDUAL'S attorney, TO THE EXECUTIVE
14 DIRECTOR OF THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM, and to
15 the HOSPITAL director of any hospital in which the individual is
16 or will be a patient.

17 Sec. 468. (1) If the court finds that an individual is not
18 a person requiring treatment, the court shall enter a finding to
19 that effect and, if the person has been hospitalized before the
20 hearing, shall order that the person be discharged immediately.

21 ~~(2) Except as provided in subsections (3) and (4), if an~~
22 ~~individual is found to be a person requiring treatment, the court~~
23 ~~may do + of the following:~~

24 ~~(a) Order the individual hospitalized in a hospital desig-~~
25 ~~nated by the department.~~

26 ~~(b) Order the individual hospitalized in any other public or~~
27 ~~private hospital if the hospital agrees.~~

1 ~~(c) Order the individual to undergo a program of treatment~~
2 ~~which is an alternative to hospitalization.~~

3 ~~(d) Order the individual to undergo a program of combined~~
4 ~~hospitalization and alternative treatment.~~

5 (2) ~~(3)~~ If an individual is found to be a person requiring
6 treatment, ~~and the individual is a resident of a county where~~
7 ~~the county community mental health board has been designated by~~
8 ~~the department as having full management responsibility for all~~
9 ~~public mental health service delivery to persons located within~~
10 ~~that county,~~ the court ~~may~~ SHALL do 1 of the following:

11 (a) Order the individual hospitalized in a hospital recom-
12 mended by ~~and under contract with the county~~ community mental
13 health ~~board~~ SERVICES PROGRAM.

14 (b) Order the individual hospitalized in ~~any other public,~~
15 A private ~~or~~ federal hospital AT THE REQUEST OF THE INDIVID-
16 UAL OR HIS OR HER FAMILY, IF PRIVATE OR FEDERAL FUNDS ARE TO BE
17 UTILIZED AND if the hospital agrees. IF THE INDIVIDUAL IS HOSPI-
18 TALIZED PURSUANT TO THIS SUBDIVISION, ANY FINANCIAL OBLIGATION
19 FOR THE HOSPITALIZATION SHALL BE SATISFIED FROM FUNDING SOURCES
20 OTHER THAN THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM, THE
21 DEPARTMENT, OR OTHER STATE OR COUNTY FUNDING.

22 (c) Order the individual to undergo a program of treatment
23 ~~which~~ THAT is an alternative to hospitalization and ~~which~~
24 THAT is recommended by the ~~county~~ community mental health
25 ~~board~~ SERVICES PROGRAM.

1 (d) Order the individual to undergo a program of combined
2 hospitalization and alternative treatment as recommended by the
3 ~~county~~ community mental health ~~board~~ SERVICES PROGRAM.

4 ~~(4) If an individual is found to be a person requiring~~
5 ~~treatment and the individual has been hospitalized involuntarily~~
6 ~~2 or more times within the 2 year period immediately preceding~~
7 ~~the filing of the petition and has rejected aftercare programs~~
8 ~~and treatment, the court shall order the individual to undergo a~~
9 ~~program of combined hospitalization and alternative treatment.~~

10 Sec. 469. (1) Before ordering a course of treatment, the
11 court shall determine whether an available program of treatment
12 exists for the individual ~~which~~ THAT is an alternative to
13 hospitalization. The court shall not order hospitalization with-
14 out a thorough consideration of available alternatives. The
15 court shall inquire as to the desires of the individual regarding
16 alternatives to hospitalization.

17 (2) Before making its decision the court shall review a
18 written report, prepared not more than 15 days before the hear-
19 ing, assessing the current availability and appropriateness for
20 the individual of treatment programs other than hospitalization,
21 including alternatives available following an initial period of
22 court-ordered hospitalization ~~pursuant to~~ UNDER section
23 468(2)(d). To this end the court shall order a report on alter-
24 natives to hospitalization, which report shall be prepared by ~~a~~
25 ~~hospital, a county~~ THE community mental health SERVICES program,
26 court staff, a public or private entity or agency, or a suitable
27 person. Preference with regard to the preparer of the report

1 shall be given to an entity, agency, or a suitable person
2 familiar with the treatment resources in the individual's home
3 community.

4 (3) If the court finds that a treatment program ~~which~~ THAT
5 is an alternative to hospitalization is adequate to meet the
6 individual's treatment needs and is sufficient to prevent harm or
7 injuries ~~which~~ THAT the individual may inflict upon himself or
8 herself or upon others, the court shall order the individual to
9 receive that treatment for a period of not more than 90 days.

10 (4) If the court finds that a treatment program ~~which~~ THAT
11 is an alternative to hospitalization would be adequate to meet
12 the individual's treatment needs following an initial period of
13 hospitalization, and that the program is sufficient to prevent
14 harm or injuries ~~which~~ THAT the individual may inflict upon
15 himself or herself or upon others, the court shall order the
16 individual to receive combined hospitalization and alternative
17 treatment for a period of not more than 90 days. The hospital-
18 ization portion of the order shall not exceed 60 days. ~~Except~~
19 ~~as otherwise provided in this subsection, the decision to release~~
20 ~~the individual from the hospital to the alternative treatment~~
21 ~~program shall be a clinical decision made by the treatment team~~
22 ~~designated by the hospital director, in consultation with the~~
23 ~~alternative treatment program provider. The clinical decision~~
24 ~~shall be approved by a psychiatrist designated by the hospital~~
25 ~~director. If the individual is hospitalized in a hospital oper-~~
26 ~~ated by or under contract with the department or county community~~
27 ~~mental health board and is a resident of a county where the~~

1 ~~community mental health board has been designated by the~~
2 ~~department as having full management responsibility for all~~
3 ~~public mental health services, the~~ THE decision to release the
4 individual from the hospital to the alternative treatment program
5 shall be a clinical decision made by the treatment team desig-
6 nated by the EXECUTIVE DIRECTOR OF THE community mental health
7 ~~board director~~ SERVICES PROGRAM, in consultation with the hos-
8 pital director. The clinical decision shall be approved by a
9 psychiatrist designated by the EXECUTIVE DIRECTOR OF THE commu-
10 nity mental health ~~board director~~ SERVICES PROGRAM. If there
11 is a disagreement between the hospital and ~~community mental~~
12 ~~health board~~ EXECUTIVE director regarding the decision to
13 release the individual, an appeal from the decision may be made
14 in writing by either party within 24 hours of the decision to the
15 department director. The department director shall designate the
16 psychiatrist responsible for clinical affairs in the department,
17 or his or her designee who shall also be a psychiatrist, to con-
18 sider the appropriateness of the release and make a decision
19 within 48 hours ~~—~~ after receipt of the written appeal. The
20 decision of the department may be appealed in writing by either
21 party to the court within 24 hours, excluding Sundays and holi-
22 days, of the department's decision. The court shall make a deci-
23 sion within 48 hours, excluding Sundays and holidays, after
24 receipt of the appeal. The court shall consider information pro-
25 vided by both parties and may appoint a psychiatrist to provide
26 an independent ~~medical~~ CLINICAL examination.

1 (5) For any order of alternative treatment, or for the
2 alternative treatment portion of an order of combined
3 hospitalization and alternative treatment, the court order shall
4 state the ~~agency or independent mental health practitioner who~~
5 COMMUNITY MENTAL HEALTH SERVICES PROGRAM THAT is directed to
6 supervise the individual's alternative treatment program. IN THE
7 EVENT THAT PRIVATE ARRANGEMENTS HAVE BEEN MADE FOR THE REIMBURSE-
8 MENT OF MENTAL HEALTH TREATMENT SERVICES IN AN ALTERNATIVE SET-
9 TING, THE COURT SHALL STATE ON THE ORDER THE NAME OF THE MENTAL
10 HEALTH AGENCY OR PROFESSIONAL RESPONSIBLE FOR SUPERVISING THE
11 INDIVIDUAL'S ALTERNATIVE TREATMENT PROGRAM.

12 (6) Before entry of an alternative treatment order, the
13 court shall have received a written report or oral testimony from
14 the agency or ~~independent mental health practitioner~~
15 PROFESSIONAL who is to supervise the individual's alternative
16 treatment program as to the capability of the agency or
17 ~~independent mental health practitioner~~ PROFESSIONAL to super-
18 vise the alternative treatment.

19 (7) Upon entry of a combined order of hospitalization and
20 alternative treatment, the court shall order a written report
21 from the agency or ~~independent mental health practitioner~~
22 PROFESSIONAL who is to supervise the individual's alternative
23 treatment program as to the capability of the agency or
24 ~~independent mental health practitioner~~ PROFESSIONAL to super-
25 vise the alternative treatment portion of the order. The report
26 shall be submitted to the court at least 3 days prior to the exit
27 of the individual from the hospital. The hospital shall notify

1 the agency or ~~independent~~ mental health ~~practitioner~~
2 PROFESSIONAL of the anticipated release of the individual at
3 least 5 days prior to the anticipated release date, and shall
4 share relevant information about the individual with the agency
5 or ~~independent~~ mental health ~~practitioner~~ PROFESSIONAL for
6 the purpose of providing continuity of treatment.

7 (8) If it is determined by the agency or ~~independent~~
8 mental health ~~practitioner~~ PROFESSIONAL directed to supervise
9 the individual's alternative treatment program that the individ-
10 ual is not complying with the court order or that the alternative
11 treatment has not been sufficient to prevent harm or injuries
12 ~~which~~ THAT the individual may be inflicting upon himself or
13 herself or upon others, then the agency or ~~independent~~ mental
14 health ~~practitioner~~ PROFESSIONAL shall notify the court immedi-
15 ately of this fact. If it is determined by the individual that
16 the alternative treatment program is not appropriate, then the
17 individual may notify the court immediately of this fact.

18 (9) During the 90-day period of alternative treatment or
19 combined hospitalization and alternative treatment, if it comes
20 to the attention of the court either that the individual ordered
21 to undergo a program of alternative treatment or combined hospi-
22 talization and alternative treatment is not complying with the
23 order, or that the alternative treatment has not been sufficient
24 to prevent harm or injuries ~~which~~ THAT the individual may be
25 inflicting upon himself or herself or upon others, or that the
26 individual believes that the alternative treatment program is not
27 appropriate, the court, without a hearing and based upon the

1 record and other available information, may do either of the
2 following:

3 (a) Consider other alternatives to hospitalization, modify
4 its original order, and direct the individual to undergo another
5 program of alternative treatment for the remainder of the 90-day
6 period.

7 (b) Enter a new order under section 468 directing that the
8 individual be hospitalized for the remainder of the 90-day period
9 or 60 days, or for the remainder of the 60-day hospitalization
10 portion of the combined order, whichever is shorter. If the
11 individual refuses to comply with the order of hospitalization,
12 the court may direct a peace officer to take the individual into
13 protective custody and transport the individual to a hospital.
14 For the purposes of this chapter, an order of hospitalization
15 issued under this section stands in the place of an order issued
16 under section 472(1).

17 (10) Before the expiration of a 90-day order of alternative
18 treatment or of combined hospitalization and alternative treat-
19 ment, if ~~it is believed by~~ the director of the hospital or the
20 agency or ~~independent~~ mental health ~~practitioner~~ PROFESSIONAL
21 directed to supervise the individual's alternative treatment pro-
22 gram BELIEVES that the individual continues to require treatment,
23 and if the individual is expected to refuse to continue treatment
24 on a voluntary basis when the order expires, then the ~~court~~
25 HOSPITAL DIRECTOR, AGENCY, OR MENTAL HEALTH PROFESSIONAL shall
26 ~~be petitioned~~ PETITION THE COURT for a determination that the

1 individual continues to be a person requiring treatment and for
2 an order authorizing 1 of the following:

3 (a) Hospitalization for a period of not more than 90 days
4 from the date of issuance of the second order.

5 (b) Combined hospitalization and alternative treatment for a
6 period of not more than 1 year from the date of issuance of the
7 second order. The hospitalization portion of the order shall not
8 exceed 90 days.

9 (c) Alternative treatment for a period of not more than
10 1 year from the date of issuance of the second order.

11 (11) BEFORE THE EXPIRATION OF A 1-YEAR ORDER OF ALTERNATIVE
12 TREATMENT OR OF COMBINED HOSPITALIZATION AND ALTERNATIVE TREAT-
13 MENT MADE UNDER THIS SECTION OR SECTION 472(2)(B), IF THE HOSPI-
14 TAL DIRECTOR OR THE AGENCY OR MENTAL HEALTH PROFESSIONAL DIRECTED
15 TO SUPERVISE THE INDIVIDUAL'S ALTERNATIVE TREATMENT PROGRAM
16 BELIEVES THAT THE INDIVIDUAL CONTINUES TO REQUIRE TREATMENT, AND
17 IF THE INDIVIDUAL IS EXPECTED TO REFUSE TO CONTINUE TREATMENT ON
18 A VOLUNTARY BASIS WHEN THE ORDER EXPIRES, THEN THE HOSPITAL
19 DIRECTOR, AGENCY, OR MENTAL HEALTH PROFESSIONAL SHALL PETITION
20 THE COURT FOR A DETERMINATION THAT THE INDIVIDUAL CONTINUES TO BE
21 A PERSON REQUIRING TREATMENT AND FOR AN ORDER AUTHORIZING 1 OF
22 THE FOLLOWING:

23 (A) CONTINUING HOSPITALIZATION. AN ORDER OF CONTINUING HOS-
24 PITALIZATION MAY BE FOR AN UNSPECIFIED PERIOD OF TIME.

25 (B) COMBINED HOSPITALIZATION AND ALTERNATIVE TREATMENT FOR A
26 PERIOD OF NOT MORE THAN 1 YEAR FROM THE DATE OF ISSUANCE OF THE

1 SECOND ORDER. THE HOSPITALIZATION PORTION OF THE ORDER SHALL NOT
2 EXCEED 90 DAYS.

3 (C) ALTERNATIVE TREATMENT FOR A PERIOD OF NOT MORE THAN 1
4 YEAR FROM THE DATE OF ISSUANCE OF THE SECOND ORDER.

5 (12) ~~+(11)~~ During the period of the order described in
6 subsection (10)(b) OR (11)(B), hospitalization may be used as
7 clinically appropriate and when ordered by a psychiatrist, for a
8 total of not more than 90 days. Unless subsection ~~+(13)~~ (14)
9 applies, the decision to hospitalize the individual or to return
10 the individual to the alternative treatment program shall be made
11 by the director of the alternative treatment program. The court
12 shall be notified by the director of the alternative treatment
13 program when the individual is hospitalized for clinical reasons
14 and when the individual is returned to the alternative treatment
15 program, with a statement from a psychiatrist explaining the need
16 for hospitalization or the belief that the individual is now
17 clinically appropriate for return to alternative treatment.

18 (13) ~~+(12)~~ For individuals under an order issued pursuant
19 to subsection (10)(b) or (c) OR (11)(B) OR (C), a 6-month
20 periodic review shall be conducted ~~pursuant to~~ AS PROVIDED IN
21 sections 482 and 483, and the individual shall have the right to
22 object to the results of the review ~~pursuant to~~ AS PROVIDED IN
23 section 484.

24 (14) ~~+(13)~~ During the period of alternative treatment
25 described in subsection (10)(c) OR (11)(C) or combined hospital-
26 ization and alternative treatment as described in subsection
27 (10)(b) OR (11)(B), if it comes to the attention of the court

1 either that the individual is not complying with the order, or
2 that the alternative treatment has not been OR WILL NOT BE suffi-
3 cient to prevent harm or injuries which the individual may be
4 inflicting upon himself or herself or upon others, or that the
5 individual believes that the alternative treatment program is not
6 appropriate, the court, without a hearing and based upon the
7 record and other available information, may do either of the
8 following:

9 (a) Consider other alternatives to hospitalization, modify
10 its original order, and direct the individual to undergo another
11 program of alternative treatment for the remainder of the order
12 as described in subsection (10)(c) OR (11)(C).

13 (b) Enter a new order under section 468 directing that the
14 individual be hospitalized for not more than the remainder of the
15 90 days of hospitalization as provided for in subsection (10)(a)
16 OR (11)(A), or the remainder of the order as described in
17 subsection (10)(b) OR (11)(B), whichever is shorter. ~~The deci-~~
18 ~~sion to release the individual from the hospital to the alterna-~~
19 ~~tive treatment program shall be a clinical decision made by the~~
20 ~~treatment team designated by the hospital director, in consulta-~~
21 ~~tion with the alternative treatment program provider. The clini-~~
22 ~~cal decision shall be approved by a psychiatrist designated by~~
23 ~~the hospital director. If the individual is hospitalized in a~~
24 ~~hospital operated by or under contract with the department or~~
25 ~~county community mental health board and is a resident of a~~
26 ~~county where the community mental health board has been~~
27 ~~designated by the department as having full management~~

1 ~~responsibility for all public mental health services, the~~ THE
2 decision to release the individual from the hospital to the
3 alternative treatment program shall be a clinical decision made
4 by the treatment team designated by the EXECUTIVE DIRECTOR OF THE
5 community mental health ~~board director~~ SERVICES PROGRAM, in
6 consultation with the hospital director. The clinical decision
7 shall be approved by a psychiatrist designated by the EXECUTIVE
8 DIRECTOR OF THE community mental health ~~board director~~ SERVICES
9 PROGRAM. If there is a disagreement between the hospital and
10 ~~community mental health board~~ THE EXECUTIVE director regarding
11 the decision to release the individual, an appeal from the deci-
12 sion may be made in writing by either party within 24 hours of
13 the decision to the department director. The department director
14 shall designate the psychiatrist responsible for clinical affairs
15 in the department, or his or her designee who shall also be a
16 psychiatrist, to consider the appropriateness of the release and
17 make a decision within 48 hours, after receipt of the written
18 appeal. The decision of the department may be appealed in writ-
19 ing by either party to the court within 24 hours, excluding
20 Sundays and holidays, of the department's decision. The court
21 shall make a decision within 48 hours, excluding Sundays and hol-
22 idays, after receipt of the appeal. The court shall consider
23 information provided by both parties and may appoint a psychia-
24 trist to provide an independent ~~medical~~ CLINICAL examination.
25 Notice of the return of the individual to the alternative treat-
26 ment program shall be given to the court. If the individual
27 refuses to comply with the order of hospitalization, the court

1 may direct a peace officer to take the individual into protective
2 custody and transport the individual to the hospital selected.

3 (15) ~~((14))~~ If an individual is hospitalized ~~pursuant to~~
4 UNDER subsection ~~((11))~~ (12) for longer than 10 days, then the
5 individual shall be notified of his or her right to object to the
6 hospitalization. Upon receipt of an objection, the court shall
7 schedule a hearing ~~pursuant to~~ UNDER section 451 for a determi-
8 nation that the individual continues to be a person requiring
9 treatment.

10 (16) ~~((15))~~ A petition filed ~~pursuant to~~ UNDER subsection
11 (10) OR (11) shall be filed not less than 14 days before the
12 expiration of an alternative treatment order, or the hospitaliza-
13 tion portion or alternative treatment portion of a combined
14 order, whichever is applicable.

15 (17) ~~((16))~~ Upon expiration of an order issued ~~pursuant to~~
16 UNDER subsection ~~((10)) (b))~~ (11)(B) or (c), if a person 18 years
17 of age or older believes that an individual continues to require
18 treatment, a petition for a determination that the individual
19 ~~is~~ CONTINUES TO BE a person requiring treatment may be filed
20 under section 434.

21 Sec. 472. (1) An initial order of hospitalization shall be
22 for a period of not more than 60 days.

23 (2) Before the expiration of a 60-day order of hospitaliza-
24 tion, if the HOSPITAL director OF THE HOSPITAL UNDER CONTRACT
25 WITH THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM believes that
26 the condition of a patient is such that the patient continues to
27 require treatment, HE OR SHE SHALL NOTIFY the EXECUTIVE director

1 WHO UPON CONCURRENCE shall CAUSE A petition TO BE FILED WITH the
2 court, not less than 14 days before the expiration of the order,
3 for a determination that the patient continues to be a person
4 requiring treatment and for an order authorizing 1 of the
5 following:

6 (a) Hospitalization for a period of not more than 90 days
7 from the date of issuance of the second order.

8 (b) Alternative treatment or a program of combined hospital-
9 ization and alternative treatment for a period of not more than 1
10 year.

11 (3) Before the expiration of a 90-day order of hospitaliza-
12 tion, if the HOSPITAL director OF THE HOSPITAL UNDER CONTRACT
13 WITH THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM believes that
14 the condition of the patient is such that the patient continues
15 to ~~require~~ BE A PERSON REQUIRING treatment, HE OR SHE SHALL
16 NOTIFY the EXECUTIVE director WHO UPON CONCURRENCE shall CAUSE A
17 petition TO BE FILED WITH the court for a determination that the
18 patient continues to be a person requiring treatment and for an
19 order authorizing 1 of the following:

20 (a) Continuing hospitalization. An order of continuing hos-
21 pitalization may be for an unspecified period of time.

22 (b) ~~Alternative~~ CONTINUING ALTERNATIVE treatment or a
23 CONTINUING program of combined hospitalization and alternative
24 treatment for ~~a~~ AN UNSPECIFIED period ~~of not more than 1 year~~
25 OF TIME.

26 (4) A petition filed under subsection (3) shall be filed not
27 less than 14 days before the expiration of the order.

1 (5) DURING THE PERIOD OF CONTINUING ALTERNATIVE TREATMENT OR
2 CONTINUING HOSPITALIZATION AND ALTERNATIVE TREATMENT DESCRIBED IN
3 SUBSECTION (3), IF IT COMES TO THE ATTENTION OF THE COURT THAT
4 THE INDIVIDUAL IS NOT COMPLYING WITH THE ORDER OR THAT THE ALTER-
5 NATIVE TREATMENT HAS NOT BEEN OR WILL NOT BE SUFFICIENT TO PRE-
6 VENT HARM OR INJURIES THAT THE INDIVIDUAL MAY BE INFLECTING UPON
7 HIMSELF OR HERSELF OR UPON OTHERS, THE COURT, WITHOUT A HEARING
8 AND BASED UPON THE RECORD AND OTHER AVAILABLE INFORMATION, MAY
9 ORDER THE INDIVIDUAL HOSPITALIZED FOR 10 DAYS. BEFORE THE EXPI-
10 RATION OF THE 10 DAYS, THE COURT SHALL HOLD A HEARING. IF THE
11 COURT FINDS AT THE HEARING THAT THE INDIVIDUAL IS NO LONGER A
12 PERSON REQUIRING TREATMENT, THE COURT SHALL ENTER A FINDING TO
13 THAT EFFECT AND SHALL ORDER THAT THE INDIVIDUAL IS NO LONGER
14 SUBJECT TO INVOLUNTARY MENTAL HEALTH TREATMENT. IF THE COURT
15 FINDS THAT THE INDIVIDUAL CONTINUES TO BE A PERSON REQUIRING
16 TREATMENT, THE COURT SHALL DO EITHER OF THE FOLLOWING:

17 (A) CONTINUE THE ORDER OF ALTERNATIVE TREATMENT OR COMBINED
18 HOSPITALIZATION AND ALTERNATIVE TREATMENT FOR AN UNSPECIFIED
19 PERIOD.

20 (B) ISSUE A NEW ORDER FOR CONTINUING ALTERNATIVE TREATMENT
21 OR COMBINED HOSPITALIZATION AND ALTERNATIVE TREATMENT FOR AN
22 UNSPECIFIED PERIOD OF TIME. THE HOSPITALIZATION PORTION OF THE
23 ORDER SHALL NOT EXCEED 90 DAYS.

24 Sec. 473. A petition for an order authorizing 90-day,
25 1-YEAR, or continuing ~~hospitalization~~ INVOLUNTARY MENTAL HEALTH
26 TREATMENT shall contain a statement setting forth the reasons for
27 the HOSPITAL director's OR THE EXECUTIVE DIRECTOR'S, OR THEIR

1 JOINT determination that the patient continues to be a person
2 requiring treatment, a statement describing the treatment program
3 provided to the patient, the results of that course of treatment,
4 and a clinical estimate as to the time further treatment will be
5 required. The petition shall be accompanied by a CLINICAL cer-
6 tificate executed by a psychiatrist.

7 Sec. 476. (1) The HOSPITAL director may at any time dis-
8 charge a voluntarily or judicially hospitalized patient whom the
9 HOSPITAL director ~~deems~~ CONSIDERS clinically suitable for
10 discharge.

11 (2) The HOSPITAL director shall discharge a patient hospi-
12 talized by court order when the patient's mental condition is
13 such that he OR SHE no longer meets the criteria of a person
14 requiring treatment.

15 (3) If a patient discharged ~~pursuant to~~ UNDER subsection
16 (1) or (2) has been hospitalized by court order, or if court pro-
17 ceedings are pending, the court shall be notified of the dis-
18 charge by the hospital.

19 Sec. 479. All leaves or absences from a hospital, other
20 than release or discharge, and all revocations of leaves and
21 absences under section 408, shall be governed in accordance with
22 rules or procedures established by the department or the hospi-
23 tal; except that a HOSPITAL director shall discharge any patient
24 who has been hospitalized subject to an order of continuing hos-
25 pitalization and who has been on an authorized leave or absence
26 from the hospital for a continuous period of ~~one~~ 1 year. Upon
27 such discharge, the HOSPITAL director shall notify the court.

1 Sec. 482. ~~(1)~~ Each individual subject to an order of
2 continuing ~~hospitalization~~ INVOLUNTARY MENTAL HEALTH TREATMENT
3 OR SUBJECT TO A 1-YEAR ORDER UNDER SECTION 469(10)(B) OR (C) OR
4 (11)(B) OR (C) has the right to regular, adequate, and prompt
5 review of his or her current status as a person requiring
6 treatment. ~~and in need of hospitalization.~~ Six months from the
7 date of an order of continuing ~~hospitalization,~~ INVOLUNTARY
8 MENTAL HEALTH TREATMENT and every 6 months thereafter, the
9 ~~director of any hospital in which an individual is hospitalized~~
10 EXECUTIVE DIRECTOR OR DESIGNEE OF THE COMMUNITY MENTAL HEALTH
11 SERVICES PROGRAM RESPONSIBLE FOR TREATMENT shall review ~~his or~~
12 ~~her~~ THE INDIVIDUAL'S status as a person requiring treatment.
13 ~~and in need of hospitalization. The director of the community~~
14 ~~mental health services board for the county of residence of the~~
15 ~~individual shall be notified of the review and shall be offered~~
16 ~~the opportunity to participate in order to recommend alternatives~~
17 ~~to continuing hospitalization.~~

18 ~~(2) Each individual subject to an order of alternative~~
19 ~~treatment or of combined hospitalization and alternative treat-~~
20 ~~ment issued pursuant to section 469(10)(b) or (c) has the right~~
21 ~~to regular, adequate, and prompt review of that individual's~~
22 ~~status as a person requiring treatment. Six months from the date~~
23 ~~of an order of alternative treatment or of combined hospitaliza-~~
24 ~~tion and alternative treatment, the director of an alternative~~
25 ~~treatment program in which the individual is participating shall~~
26 ~~review that individual's status as a person requiring treatment.~~
27 ~~If an individual was treated in a hospital prior to entering the~~

~~1 alternative treatment program, the director of the hospital shall~~
~~2 be notified of the review and shall be invited to participate.~~
~~3 If the alternative treatment program provider is under contract~~
~~4 with a community mental health board, the community mental health~~
~~5 board director shall be notified of the review and shall be~~
~~6 invited to participate.~~

7 Sec. 483. (1) The results of each periodic review shall be
8 made part of the individual's record, and shall be filed within 5
9 days of the review in the form of a written report with the court
10 which last ordered the individual's ~~hospitalization, alternative~~
11 ~~treatment, or combined hospitalization and alternative treat-~~
12 ~~ment, and within said THOSE 5 days, the EXECUTIVE director~~
13 shall give notice of the results of the review to the individual,
14 the individual's attorney, the individual's guardian, AND the
15 individual's nearest relative or a person designated by the
16 individual. ~~, the director of the community mental health serv-~~
17 ~~ices board for the county of residence of the individual, and the~~
18 ~~director of the hospital where the individual was treated prior~~
19 ~~to entering an alternative treatment program.~~

20 (2) An individual under ~~a continuing~~ AN order of
21 ~~hospitalization or in a program of alternative treatment or com-~~
22 ~~bined hospitalization and alternative~~ CONTINUING INVOLUNTARY
23 MENTAL HEALTH treatment or a person designated by the individual
24 may submit a complaint to the provider of services at any time
25 regarding the quality and appropriateness of the treatment
26 provided. A copy of each complaint and the provider's response
27 to each complaint shall be submitted to the EXECUTIVE DIRECTOR OF

1 THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM AND THE court along
2 with the written report required by subsection (1).

3 Sec. 484. If the report REQUIRED UNDER SECTION 483 con-
4 cludes that the individual ~~continues to require~~ REQUIRES CON-
5 TINUING INVOLUNTARY MENTAL HEALTH treatment ~~and hospitalization,~~
6 ~~alternative treatment, or a combined hospitalization and alterna-~~
7 ~~tive treatment,~~ and the individual or the EXECUTIVE director of
8 the community mental health services ~~board~~ PROGRAM objects to
9 ~~either or both of those~~ THE conclusions, the individual or the
10 EXECUTIVE director ~~of the community mental health services board~~
11 ~~shall have~~ HAS the right to a hearing and may petition the court
12 for discharge OF THE INDIVIDUAL from the ~~hospital or the~~
13 ~~alternative~~ treatment program. This petition ~~may~~ SHALL be
14 presented to the court ~~or a representative of the hospital~~
15 within 7 days, excluding Sundays and holidays, after the report
16 is received. ~~If the petition is presented to a representative~~
17 ~~of the hospital, he or she shall transmit it to the court~~
18 ~~immediately.~~

19 Sec. 48 . In addition to his or her right to a hearing
20 under section 484, ~~a patient hospitalized by~~ AN INDIVIDUAL WHO
21 IS THE SUBJECT OF an order of continuing ~~hospitalization shall~~
22 ~~have~~ INVOLUNTARY MENTAL HEALTH TREATMENT HAS the right to a
23 hearing and may petition the court for discharge without leave of
24 court once within each 12-month period from the date of the orig-
25 inal order of continuing ~~hospitalization~~ INVOLUNTARY MENTAL
26 HEALTH TREATMENT. The petition shall be accompanied by a
27 physician's or a FULLY LICENSED psychologist's ~~report~~ CLINICAL

1 CERTIFICATE setting forth the reasons for the physician's or the
2 psychologist's conclusion that the ~~patient~~ INDIVIDUAL no longer
3 is a person requiring treatment. ~~or in need of hospitalization.~~
4 If a physician's or a FULLY LICENSED psychologist's ~~report~~
5 CLINICAL CERTIFICATE does not accompany the petition because the
6 ~~patient~~ INDIVIDUAL is indigent or is unable for reasons satis-
7 factory to the court to procure a physician's or a psychologist's
8 ~~report~~ CLINICAL CERTIFICATE, the court shall appoint a physi-
9 cian or a FULLY LICENSED psychologist to examine the ~~patient~~
10 INDIVIDUAL, and the physician or the psychologist shall furnish a
11 ~~report~~ CLINICAL CERTIFICATE to the court. If the physician's
12 or the psychologist's ~~report~~ CLINICAL CERTIFICATE concludes
13 that the ~~patient~~ INDIVIDUAL continues to be a person requiring
14 treatment, ~~and in need of hospitalization,~~ the court shall
15 notify the ~~patient~~ INDIVIDUAL of that finding and shall dismiss
16 the petition for discharge.

17 Sec. 485a. (1) Upon a hearing under section 484 or 485, if
18 the court finds that an individual under an order of continuing
19 ~~hospitalization~~ INVOLUNTARY MENTAL HEALTH TREATMENT is no
20 longer a person requiring treatment, the court shall enter a
21 finding to that effect and shall order that the individual be
22 discharged.

23 (2) Upon a hearing under section 484 or 485, if the court
24 finds that an individual under a continuing order of
25 ~~hospitalization~~ INVOLUNTARY MENTAL HEALTH TREATMENT continues
26 to be a person requiring treatment, and after consideration of

1 complaints submitted ~~pursuant to~~ UNDER section 483(2), the
2 court may do ~~either~~ 1 of the following:

3 (a) Continue the order.

4 (b) Issue a new order authorizing alternative treatment or
5 combined hospitalization and alternative treatment ~~pursuant to~~
6 UNDER section 469(10)(b) or (c) OR (11)(B) OR (C).

7 (C) ISSUE A NEW ORDER FOR CONTINUING ALTERNATIVE TREATMENT
8 OR COMBINED HOSPITALIZATION AND ALTERNATIVE TREATMENT FOR AN
9 UNSPECIFIED PERIOD OF TIME.

10 (3) Upon a hearing under section 484, if the court finds
11 that the individual under an order issued pursuant to section
12 469(10)(b) or (c) OR (11)(B) OR (C) is no longer a person requir-
13 ing treatment, the court shall enter a finding to that effect and
14 shall order that the individual is no longer subject to involun-
15 tary MENTAL HEALTH treatment. If the individual is found to con-
16 tinue to require treatment, and after consideration of complaints
17 submitted pursuant to section 483(2), the court shall do either
18 of the following:

19 (a) Continue the order of alternative treatment or combined
20 hospitalization and alternative treatment for the remainder of
21 the order issued pursuant to section 469(10)(b) or (c) OR (11)(B)
22 OR (C).

23 (b) Issue a new order for alternative treatment or combined
24 hospitalization and alternative treatment for the remainder of
25 the order issued pursuant to section 469(10)(b) or (c) OR (11)(B)
26 OR (C).

1 Sec. 490. Individuals ~~hospitalized after the effective~~
 2 ~~date of~~ RECEIVING INVOLUNTARY MENTAL HEALTH TREATMENT UNDER this
 3 chapter shall ~~at the time of hospitalization~~ receive a copy of
 4 section 489 ~~, and patients presently residing in hospitals shall~~
 5 ~~also receive a copy~~ UPON THE COMMENCEMENT OF INVOLUNTARY MENTAL
 6 HEALTH TREATMENT. An individual discharged from a hospital shall
 7 receive a copy of section 489 upon request.

8 Sec. 497. At a hearing in which a court considers a peti-
 9 tion for discharge, if the court orders a patient discharged and
 10 the patient has been adjudicated legally incompetent and has had
 11 a guardian ~~concomitantly~~ appointed pursuant to ~~this chapter or~~
 12 ~~pursuant to a previous commitment statute of this state,~~ THE
 13 REVISED PROBATE CODE, ACT NO. 642 OF THE PUBLIC ACTS OF 1978,
 14 BEING SECTIONS 700.1 TO 700.993 OF THE MICHIGAN COMPILED LAWS,
 15 the court shall enter an order restoring ~~such~~ THE patient to
 16 legal competence unless the court, after hearing evidence and
 17 receiving testimony on the subject, finds that the patient is
 18 presently legally incompetent and in need of a guardian.

19 Sec. 498a. ~~For purposes of this chapter, the words and~~
 20 ~~phrases defined in sections 498b and 498c have the meanings~~
 21 ~~ascribed to them in those sections~~ A MINOR SHALL BE HOSPITALIZED
 22 ONLY PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

23 Sec. 498b. ~~(1) "Certificate" means a certificate as~~
 24 ~~defined in section 400.~~ AS USED IN THIS CHAPTER, UNLESS THE CON-
 25 TEXT REQUIRES OTHERWISE:

26 ~~(2) "Child psychiatrist" means either of the following:~~

1 ~~(a) A psychiatrist who specializes in the evaluation and~~
2 ~~treatment of minors and is certified or eligible for~~
3 ~~certification as a child psychiatrist by the American board of~~
4 ~~psychiatry and neurology as approved by the board of medicine~~
5 ~~created under article 15 of the public health code, Act No. 368~~
6 ~~of the Public Acts of 1978, being sections 333.16101 to 333.16038~~
7 ~~of the Michigan Compiled Laws.~~

8 ~~(b) A psychiatrist employed by or under contract with the~~
9 ~~department or county community health board with educational and~~
10 ~~clinical experience in the evaluation and treatment of minors who~~
11 ~~is approved by the director.~~

12 ~~(3) "Children's diagnostic and treatment service" means a~~
13 ~~children's diagnostic and treatment service as defined in section~~
14 ~~200.~~

15 ~~(4) "Community mental health emergency service unit" means a~~
16 ~~community mental health emergency service unit as defined in~~
17 ~~section 400.~~

18 ~~(5) "County director" means a county director as defined in~~
19 ~~section 200.~~

20 ~~(6) "Court" means the probate court for the county in which~~
21 ~~a minor who has requested hospitalization, for whom a request for~~
22 ~~hospitalization has been made, or who has been hospitalized pur-~~
23 ~~suant to this chapter either resides or was found.~~

24 ~~(7) "Department" means the department of mental health or~~
25 ~~the official designee of the director of the department.~~

26 ~~(8) "Discharge" means discharge as defined in section 400.~~

1 ~~(9) "Emotional disturbance" means mental illness as defined~~
 2 ~~in section 400a, or a severe or persistent emotional condition~~
 3 ~~characterized by seriously impaired personality development,~~
 4 ~~individual adjustment, social adjustment, or emotional growth,~~
 5 ~~which is demonstrated in behavior symptomatic of that~~
 6 ~~impairment.~~

7 ~~(10) "Guardian" means a person with authority for the care~~
 8 ~~and custody of a minor pursuant to an order of the probate court~~
 9 ~~or the circuit court.~~

10 ~~(11) "Hospital" means a hospital as defined in section 400~~
 11 ~~which has specialized mental health services for the treatment of~~
 12 ~~minors.~~

13 ~~(12) "Hospital director" means the chief executive officer~~
 14 ~~of a hospital or his or her designee.~~

15 ~~(13) "Hospitalization" or "hospitalize" means to provide~~
 16 ~~specialized treatment for a minor as an inpatient in a hospital.~~

17 (A) "CHILD REQUIRING TREATMENT" MEANS EITHER OF THE
 18 FOLLOWING:

19 (i) A CHILD WITH A SUBSTANTIAL DISORDER OF THOUGHT OR MOOD
 20 THAT SIGNIFICANTLY IMPAIRS JUDGMENT, BEHAVIOR, CAPACITY TO RECOG-
 21 NIZE REALITY, OR ABILITY TO COPE WITH THE ORDINARY DEMANDS OF
 22 LIFE.

23 (ii) A CHILD HAVING A SEVERE OR PERSISTENT EMOTIONAL CONDI-
 24 TION CHARACTERIZED BY SERIOUSLY IMPAIRED PERSONALITY DEVELOPMENT,
 25 INDIVIDUAL ADJUSTMENT, SOCIAL ADJUSTMENT, OR EMOTIONAL GROWTH,
 26 WHICH IS DEMONSTRATED IN BEHAVIOR SYMPTOMATIC OF THAT
 27 IMPAIRMENT.

1 (B) "COURT" MEANS THE PROBATE COURT FOR THE COUNTY IN WHICH
2 A MINOR WHO HAS REQUESTED HOSPITALIZATION, FOR WHOM A REQUEST FOR
3 HOSPITALIZATION HAS BEEN MADE, OR WHO HAS BEEN HOSPITALIZED PUR-
4 SUANT TO THIS CHAPTER EITHER RESIDES OR WAS FOUND.

5 Sec. 498c. ~~(1) "Minor" means a person who is less than 18~~
6 ~~years of age.~~ AS USED IN THIS CHAPTER, UNLESS THE CONTEXT
7 REQUIRES OTHERWISE:

8 ~~(2) "Peace officer" means an officer of the department of~~
9 ~~state police or of a law enforcement agency of a county, town-~~
10 ~~ship, city, or village, who is responsible for the prevention and~~
11 ~~detection of crime and enforcement of the criminal laws of this~~
12 ~~state.~~

13 (A) ~~(3)~~ "Person in loco parentis" means a person who is
14 not the parent or guardian of a minor, but who has either legal
15 custody of a minor or physical custody of a minor and is provid-
16 ing support and care for the minor.

17 ~~(4) "Physician" means a physician as defined in~~
18 ~~section 400.~~

19 ~~(5) "Protective custody" means protective custody as defined~~
20 ~~in section 400.~~

21 ~~(6) "Psychiatrist" means a psychiatrist as defined in~~
22 ~~section 400 who has at least 1 year of full time clinical~~
23 ~~experience or its equivalent in the evaluation and treatment of~~
24 ~~minors.~~

25 ~~(7) "Psychologist" means a person who holds a license to~~
26 ~~engage in the practice of psychology under article 15 of the~~
27 ~~public health code, Act No. 368 of the Public Acts of 1978, being~~

1 ~~sections 333.16101 to 333.18838 of the Michigan Compiled Laws,~~
 2 ~~and who has at least 1 year of full time clinical experience or~~
 3 ~~its equivalent in the evaluation and treatment of minors.~~

4 (B) ~~(8)~~ "State ward" means a state ward as defined in sec-
 5 tion 2 of the youth rehabilitation services act, Act No. 150 of
 6 the Public Acts of 1974, being section 803.302 of the Michigan
 7 Compiled Laws.

8 (C) ~~(9)~~ "Suitable for hospitalization" means a determina-
 9 tion concerning a minor that all of the following criteria are
 10 met:

11 (i) ~~(a)~~ The minor is ~~emotionally disturbed~~ A CHILD
 12 REQUIRING TREATMENT.

13 (ii) ~~(b)~~ The minor ~~requires mental health treatment~~ IS
 14 IN NEED OF HOSPITALIZATION and is expected to benefit from
 15 hospitalization.

16 (iii) ~~(c)~~ An appropriate, less restrictive alternative to
 17 hospitalization is not available.

18 ~~(10) "Treatment" means treatment as defined in~~
 19 ~~section 400.~~

20 Sec. 498d. (1) Subject to section 498e and except as other--
 21 wise provided in this chapter, a minor of any age may be hospi-
 22 talized if both of the following conditions are met:

23 (a) The minor's parent, guardian, or a person acting in loco
 24 parentis for the minor or, pursuant to subsection (2), the
 25 department of social services requests hospitalization of the
 26 minor pursuant to this chapter.

1 (b) The minor is found to be suitable for hospitalization.

2 (2) The department of social services may request
3 hospitalization of a minor who is 1 of the following:

4 (a) Committed to the department of social services ~~pursuant~~
5 ~~to~~ UNDER Act No. 220 of the Public Acts of 1935, being sections
6 400.201 to 400.214 of the Michigan Compiled Laws.

7 (b) A ward of the court ~~pursuant to~~ UNDER CHAPTER X OR
8 XIIIA OF Act No. 288 of the Public Acts of 1939, being sections
9 710.21 to 712A.28 of the Michigan Compiled Laws, if the depart-
10 ment of social services is specifically empowered to do so by an
11 order of the court.

12 (c) Committed to the department of social services as
13 described in section 2 of the youth rehabilitation services act,
14 Act No. 150 of the Public Acts of 1974, being section 803.302 of
15 the Michigan Compiled Laws, except that if the minor is residing
16 with his or her custodial parent, the consent of the custodial
17 parent ~~shall be~~ IS required.

18 (3) Subject to sections 498e, 498f, and 498j, a minor 14
19 years of age or older may be hospitalized if both of the follow-
20 ing conditions are met:

21 (a) The minor requests hospitalization pursuant to this
22 chapter.

23 (b) The minor is found to be suitable for hospitalization.

24 (4) In making the determination of suitability for hospital-
25 ization, ~~emotional disturbance of~~ a minor shall not be deter-
26 mined TO BE A CHILD REQUIRING TREATMENT solely on the basis of 1
27 or more of the following conditions:

1 (a) Epilepsy.

2 (b) Developmental ~~disabilities as defined in section 500-~~
3 DISABILITY.

4 (c) Brief periods of intoxication caused by substances such
5 as alcohol or drugs or by dependence upon or addiction to those
6 substances.

7 (d) Juvenile offenses, including school truancy, home truan-
8 cy, or incorrigibility.

9 (e) Sexual activity.

10 (f) Religious activity or beliefs.

11 (g) Political activity or beliefs.

12 Sec. 498e. (1) A minor requesting hospitalization or for
13 whom a request for hospitalization was made shall be evaluated to
14 determine suitability for hospitalization pursuant to this sec-
15 tion as soon as possible after the request is made.

16 (2) The ~~county~~ EXECUTIVE director ~~for~~ OF the COMMUNITY
17 MENTAL HEALTH SERVICES PROGRAM THAT IS RESPONSIBLE FOR PROVIDING
18 SERVICES IN THE county of residence of a minor requesting hospi-
19 talization or for whom a request for hospitalization was made
20 shall evaluate the minor to determine his or her suitability for
21 hospitalization pursuant to this section. In making a determina-
22 tion of a minor's suitability for hospitalization, the ~~county~~
23 EXECUTIVE director shall utilize the ~~county~~ COMMUNITY MENTAL
24 HEALTH SERVICES program's children's diagnostic and treatment
25 service. If a children's diagnostic and treatment service does
26 not exist in the ~~county~~ COMMUNITY MENTAL HEALTH SERVICES
27 program, the ~~county~~ EXECUTIVE director shall, through written

1 agreement, arrange to have a determination made by the children's
2 diagnostic and treatment service of another ~~county~~ COMMUNITY
3 MENTAL HEALTH SERVICES program, or by the appropriate hospital.

4 (3) ~~To evaluate~~ IN EVALUATING a minor's suitability for
5 hospitalization, THE EXECUTIVE DIRECTOR SHALL DO all of the
6 following: ~~shall occur:~~

7 (a) ~~Both~~ DETERMINE BOTH of the following: ~~shall be~~
8 ~~determined:~~

9 (i) Whether the minor is ~~emotionally disturbed~~ A CHILD
10 REQUIRING TREATMENT.

11 (ii) Whether the minor requires ~~mental health treatment~~
12 HOSPITALIZATION and is expected to benefit from hospitalization.

13 (b) ~~If the county director determines that~~ DETERMINE
14 WHETHER there is an appropriate, available alternative to hospi-
15 talization, AND IF THERE IS, REFER the minor ~~shall be referred~~
16 to that program.

17 (c) ~~The county director shall consult~~ CONSULT with the
18 appropriate school, hospital, and other public or private
19 agencies.

20 (d) If the minor is determined to be suitable for hospital-
21 ization UNDER SUBDIVISION (A), REFER the minor ~~shall be~~
22 ~~referred~~ to the appropriate hospital.

23 (e) If the minor is determined not to be suitable for hospi-
24 talization UNDER SUBDIVISION (A), ~~the county director shall~~
25 determine if the minor needs mental health services. If it is
26 determined that the minor needs mental health services, the
27 ~~county~~ EXECUTIVE director shall offer an appropriate treatment

1 program for the minor, if the program is available, or refer the
2 minor to any other appropriate agency for services.

3 (4) If a minor has been admitted to a hospital not operated
4 by or under contract with the department or a ~~county~~ community
5 mental health ~~board~~ SERVICES PROGRAM and the hospital considers
6 it necessary to transfer the minor to a hospital ~~operated by or~~
7 under contract with ~~the department or a county~~ community
8 mental health ~~board~~ SERVICES PROGRAM, the hospital shall submit
9 an application for transfer to the appropriate ~~county~~ community
10 mental health ~~board~~ SERVICES PROGRAM. The ~~county~~ EXECUTIVE
11 director shall determine if there is an appropriate, available
12 alternative to hospitalization of the minor. If the ~~county~~
13 EXECUTIVE director determines that there is an appropriate,
14 available alternative program, the minor shall be referred to
15 that program. If the ~~county~~ EXECUTIVE director determines that
16 there is not an appropriate, alternative program, the minor shall
17 be referred to a hospital ~~operated by or~~ under contract with
18 the ~~department or a county~~ community mental health ~~board~~
19 SERVICES PROGRAM.

20 (5) Except as provided in subsections (1) and (4), this sec-
21 tion ~~shall~~ only ~~apply~~ APPLIES to hospitals operated ~~by or~~
22 under contract with ~~the department or a county~~ community
23 mental health ~~board~~ SERVICES PROGRAM.

24 Sec. 498f. If a minor is referred to a hospital by ~~a~~
25 ~~county~~ AN EXECUTIVE director pursuant to section 498e, the hos-
26 pital director may accept the referral and admit the minor, or
27 the hospital director may order an examination of the minor to

1 confirm the minor's suitability for hospitalization. The
2 examination shall begin immediately. If the hospital director
3 confirms the minor's suitability for hospitalization, the minor
4 shall be scheduled for admission to the hospital. If the minor
5 cannot be admitted immediately because of insufficient space in
6 the hospital, the minor shall be placed on a waiting list and the
7 ~~county~~ EXECUTIVE director shall provide necessary interim serv-
8 ices, including periodic reassessment of the suitability for
9 hospitalization. The minor may be referred to another hospital.
10 If the hospital director does not confirm the minor's suitability
11 for hospitalization, the minor shall be referred to the ~~county~~
12 EXECUTIVE director, who shall offer an appropriate treatment plan
13 for the minor or refer the minor to any other agency for
14 services.

15 Sec. 498h. (1) A parent, guardian, or person in loco paren-
16 tis may request emergency admission of a minor to a hospital, if
17 the person making the request has reason to believe that the
18 minor is ~~emotionally disturbed~~ A CHILD REQUIRING TREATMENT and
19 that the minor presents a serious danger to self or others.

20 (2) If the hospital to which the request for emergency
21 admission is made is not ~~operated by or~~ under contract to the
22 ~~department or to a county~~ community mental health ~~board~~
23 SERVICES PROGRAM, the request for emergency hospitalization shall
24 be made directly to the hospital. If the hospital director
25 agrees that the minor needs emergency admission, the minor shall
26 be hospitalized. If the hospital director does not agree, the

1 person making the request may request hospitalization of the
2 minor ~~pursuant to~~ UNDER section 498d.

3 (3) If the hospital to which the request for emergency
4 admission is made is ~~operated by or~~ under contract to the
5 ~~department or to a county~~ community mental health ~~board~~
6 SERVICES PROGRAM, the request shall be made to the ~~emergency~~
7 ~~services~~ PREAMMISSION SCREENING unit of the ~~county~~ community
8 mental health ~~board~~ SERVICES PROGRAM SERVING in the county
9 where the minor resides. If the ~~county~~ community mental health
10 ~~board~~ SERVICES PROGRAM has a children's diagnostic and treat-
11 ment service, the ~~emergency services~~ PREAMMISSION SCREENING
12 unit shall refer the person making the request to that service.
13 In counties where there is no children's diagnostic and treatment
14 service, the ~~emergency services~~ PREAMMISSION SCREENING unit
15 shall refer the person making the request to the appropriate
16 hospital. If it is determined that emergency admission is not
17 necessary, the person may request hospitalization of the minor
18 ~~pursuant to~~ UNDER section 498d. If it is determined that emer-
19 gency admission is necessary, the minor shall be hospitalized or
20 placed in an appropriate alternative program.

21 (4) If a person in loco parentis makes a request for emer-
22 gency admission and the minor is admitted to a hospital ~~pursuant~~
23 ~~to~~ UNDER this section, the hospital director or the ~~county~~
24 EXECUTIVE director OF THE COMMUNITY MENTAL HEALTH SERVICES
25 PROGRAM immediately shall notify the parent or parents or the
26 guardian of the minor.

1 (5) If a minor is hospitalized in a hospital ~~which~~ THAT is
2 operated ~~by or~~ under contract ~~with the department or~~ with a
3 ~~county~~ community mental health ~~board~~ SERVICES PROGRAM, the
4 hospital director shall notify the appropriate ~~county~~ EXECUTIVE
5 director within 24 hours after the hospitalization occurs.

6 (6) If a peace officer, as a result of personal observation,
7 has reasonable grounds to believe that a minor is ~~emotionally~~
8 ~~disturbed~~ A CHILD REQUIRING TREATMENT and that the minor
9 presents a serious danger to self or others and if after a rea-
10 sonable effort to locate the minor's parent, guardian, or person
11 in loco parentis, the minor's parent, guardian, or person in loco
12 parentis cannot be located, the peace officer may take the minor
13 into protective custody and transport the minor to the appropri-
14 ate ~~county~~ community mental health ~~service~~ PREADMISSION
15 SCREENING unit, if the ~~county~~ community mental health SERVICES
16 program has a children's diagnostic and treatment service, or to
17 a hospital if ~~the county~~ IT does not have a children's diagnos-
18 tic and treatment service. After transporting the minor, the
19 peace officer shall execute a written request for emergency hos-
20 pitalization of the minor stating the reasons, based upon per-
21 sonal observation, THAT the peace officer believes that emergency
22 hospitalization is necessary. The written request shall include
23 a statement that a reasonable effort was made by the peace offi-
24 cer to locate the minor's parent, guardian, or person in loco
25 parentis. If it is determined that emergency hospitalization of
26 the minor is not necessary, the minor shall be returned to his or
27 her parent, guardian, or person in loco parentis if an additional

1 attempt to locate the parent, guardian, or person in loco
2 parentis is successful. If the minor's parent, guardian, or
3 person in loco parentis cannot be located, the minor shall be
4 turned over to the protective services program of the department
5 of social services. If it is determined that emergency admission
6 of the minor is necessary, the minor shall be admitted to the
7 appropriate hospital or to an appropriate alternative program.
8 The ~~hospital director or the county~~ EXECUTIVE director immedi-
9 ately shall notify the parent, guardian, or person in loco
10 parentis. If the hospital is ~~operated by or~~ under contract
11 with the ~~department or with a county~~ community mental health
12 ~~board~~ SERVICES PROGRAM, the hospital director shall ~~also~~
13 notify the appropriate ~~county~~ EXECUTIVE director within 24
14 hours after the hospitalization occurs.

15 (7) An evaluation of a minor admitted to a hospital under
16 this section shall begin immediately after the minor is
17 admitted. The evaluation shall be conducted in the same manner
18 as provided in section 498e. If the minor is not found to be
19 suitable for hospitalization, the minor shall be released into
20 the custody of his or her parent, guardian, or person in loco
21 parentis and the minor shall be referred to the ~~county~~
22 EXECUTIVE director who shall determine if the minor needs mental
23 health services. If it is determined that the minor needs mental
24 health services, the ~~county~~ EXECUTIVE director shall offer an
25 appropriate treatment program for the minor, if the program is
26 available, or refer the minor to another agency for services.

1 (8) A hospital director shall proceed under either the
2 revised probate code, Act No. 642 of the Public Acts of 1978,
3 being sections 700.1 to 700.933 of the Michigan Compiled Laws, or
4 chapter XIIIA of Act No. 288 of the Public Acts of 1939, being
5 sections 712A.1 to 712A.28 of the Michigan Compiled Laws, as war-
6 ranted by the situation and the best interests of the minor,
7 under any of the following circumstances:

8 (a) The hospital director cannot locate a parent, guardian,
9 or person in loco parentis of a minor admitted to a hospital
10 ~~pursuant to~~ UNDER subsection (6).

11 (b) The hospital director cannot locate the parent or guard-
12 ian of a minor admitted to a hospital by a person in loco paren-
13 tis ~~pursuant to~~ UNDER this section.

14 Sec. 498k. (1) If a minor who has been admitted to a hospi-
15 tal ~~pursuant to~~ UNDER this chapter leaves the hospital without
16 the knowledge and permission of the appropriate hospital staff,
17 the hospital shall immediately notify the minor's parent, guardi-
18 an, or person in loco parentis, the ~~county~~ EXECUTIVE director
19 OF THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM if appropriate,
20 and the appropriate police agency.

21 (2) If a minor has left a hospital without the knowledge and
22 permission of the appropriate hospital staff or has refused a
23 request to return to the hospital while on an authorized absence
24 from the hospital, and the hospital director believes that the
25 minor should be returned to the hospital, the hospital director
26 shall request that the minor's parent, guardian, or person in
27 loco parentis transport the minor to the hospital. If the

1 parent, guardian, or person in loco parentis is unable, after
2 reasonable effort, to transport the minor, a request may be sub-
3 mitted to the court for an order to transport the minor. If the
4 court is satisfied that a reasonable effort was made to transport
5 the minor, the court shall order a peace officer to take the
6 minor into protective custody for the purpose of returning the
7 minor to the hospital.

8 (3) An opportunity for appeal, and notice of that opportuni-
9 ty, shall be provided to any minor and to the parent or guardian
10 of any minor who is returned over the minor's objection from any
11 authorized leave in excess of 10 days. In the case of a minor
12 less than 14 years of age, the appeal shall be made by the parent
13 or guardian of the minor or person in loco parentis.

14 Sec. 4981. (1) Not more than 90 days after the admission of
15 a minor to a hospital pursuant to this chapter, and at 60-day
16 intervals after the expiration of the 90-day period, the director
17 of the hospital shall perform or arrange to have performed a
18 review of the minor's suitability for hospitalization. If the
19 minor is in a hospital ~~operated by or~~ under contract with ~~the~~
20 ~~department or a county~~ community mental health ~~board~~
21 SERVICES PROGRAM, ~~and if the county of residence of the minor~~
22 ~~does not have a children's diagnostic and treatment service, the~~
23 ~~county director for that county shall be invited to participate~~
24 ~~in the reviews. If the county of residence of the minor does~~
25 ~~have a children's diagnostic and treatment service, the county~~
26 EXECUTIVE director shall participate in the reviews.

1 (2) The reviews of the minor's suitability for continued
2 hospitalization shall be conducted ~~pursuant to~~ UNDER rules
3 promulgated by the department. Results of the reviews shall be
4 transmitted promptly to all of the following:

5 (a) The minor, if the minor is 14 years of age or older.

6 (b) The parent, guardian, or person in loco parentis of the
7 minor.

8 (c) The ~~appropriate county~~ EXECUTIVE director OF THE COM-
9 MUNITY MENTAL HEALTH SERVICES PROGRAM.

10 (d) The court, if there was a court hearing on the admission
11 of the minor.

12 Sec. 498n. (1) Upon receipt of an objection to hospitaliza-
13 tion filed ~~pursuant to~~ UNDER section 498m, the court shall
14 schedule a hearing to be held within 7 days, excluding Sundays
15 and holidays. After receipt of the objection, the court shall
16 notify all of the following persons of the time and place for the
17 hearing:

18 (a) The parents or guardian of the minor to whom the objec-
19 tion refers.

20 (b) The person filing the objection.

21 (c) The minor to whom the objection refers.

22 (d) The person who executed the application for hospitaliza-
23 tion of the minor.

24 (e) The hospital director.

25 (f) The ~~county~~ EXECUTIVE director OF THE COMMUNITY MENTAL
26 HEALTH SERVICES PROGRAM.

1 (2) The court shall sustain an objection to hospitalization
2 and order the discharge of the minor unless the court finds by
3 clear and convincing evidence that the minor is suitable for
4 hospitalization. If the court does not sustain the objection, an
5 order shall not be entered, the objection shall be dismissed, and
6 the hospital shall continue to hospitalize the minor.

7 (3) The hearing required by subsection (1) shall be governed
8 by sections 451 to 465.

9 (4) The court shall not dismiss the objection and refuse to
10 order a discharge of a hospitalized minor on the grounds that the
11 minor's parent or guardian is unwilling or unable to provide or
12 arrange for the management, care, or residence of the minor. If
13 an objection is sustained and the minor's parent or guardian is
14 unwilling or unable to provide or arrange for the management,
15 care, or residence of the minor, the objecting person may, or a
16 person authorized by the court shall, file promptly a petition
17 under section 2(b) of chapter XIIA of Act No. 288 of the Public
18 Acts of 1939, being section 712A.2 of the Michigan Compiled Laws,
19 to ensure that the minor is provided with appropriate management,
20 care, or residence.

21 (5) If a hospital has officially agreed to admit a minor,
22 but admission has been deferred until a subsequent date, an
23 objection to hospitalization of the minor may be made to the
24 court ~~pursuant to~~ UNDER section 498m before the minor is admit-
25 ted to the hospital. A minor 14 years of age or older shall be
26 notified of the right to object ~~pursuant to~~ IN ACCORDANCE WITH

1 rules promulgated by the department. If the objection is
2 sustained by the court, the minor shall not be hospitalized.

3 Sec. 4980. (1) Except as provided in subsection (4), a
4 minor hospitalized ~~pursuant to~~ UNDER this chapter shall not be
5 kept in the hospital more than 3 days, excluding Sundays and hol-
6 idays, after receipt by the hospital of a written notice of
7 intent to terminate the hospitalization of the minor executed by
8 the minor's parent, guardian, or person in loco parentis or by
9 the minor if the minor is 14 years of age or older and was admit-
10 ted to the hospital upon his or her own request.

11 (2) Upon receipt of an oral request to terminate hospital-
12 ization of a minor pursuant to subsection (1), the hospital
13 promptly shall supply the necessary form for termination of hos-
14 pitalization to the person giving notice.

15 (3) Upon receipt of notice or an oral request ~~pursuant to~~
16 UNDER subsection (1) or (2) by a hospital ~~operated by or~~ under
17 contract with the ~~department or a county~~ community mental
18 health ~~board~~ SERVICES PROGRAM, the hospital director immedi-
19 ately shall notify the ~~county~~ EXECUTIVE director.

20 (4) If notice of intent to terminate hospitalization is
21 received by a hospital ~~pursuant to~~ UNDER subsection (1) or (2),
22 and the director of the hospital determines that the minor to
23 whom the notice applies should remain in the hospital, the direc-
24 tor of the hospital or a person designated by the director of the
25 hospital shall file, within 3 days, excluding Sundays and holi-
26 days, after receipt of the notice, a petition with the court
27 requesting an order to continue hospitalization of the minor.

1 The petition shall be accompanied by 1 certificate executed by a
2 child psychiatrist and 1 certificate executed by either a physi-
3 cian or a psychologist who holds other than a limited license to
4 practice psychology. If a petition is filed with the court
5 ~~pursuant to~~ UNDER this subsection, the hospital shall continue
6 to hospitalize the minor pending a court hearing on the
7 petition.

8 (5) Upon receipt of a petition to continue hospitalization
9 of a minor ~~pursuant to~~ UNDER subsection (4), the court shall
10 schedule a hearing to be held within 7 days, excluding Sundays
11 and holidays, after receipt of the petition. The hearing shall
12 be convened ~~pursuant to~~ IN ACCORDANCE WITH sections 451
13 to 465.

14 (6) If the court finds the minor to be suitable for hospi-
15 talization by clear and convincing evidence, the court shall
16 order the minor to continue hospitalization for not more than 60
17 days. If the court does not find by clear and convincing evi-
18 dence that the minor is suitable for hospitalization, the court
19 shall order the minor discharged from the hospital.

20 Sec. 498p. (1) Upon periodic review of a hospitalized minor
21 ~~pursuant to~~ UNDER section 498l, or at any other time, if it is
22 determined that the minor is no longer suitable for hospitaliza-
23 tion, the director of the hospital shall discharge the minor from
24 the hospital.

25 (2) If a minor discharged ~~pursuant to~~ UNDER subsection (1)
26 has been hospitalized ~~pursuant to~~ UNDER a court order, or if

1 court proceedings are pending, the court shall be notified of the
2 minor's discharge from the hospital.

3 (3) The director of a hospital shall notify the appropriate
4 ~~county~~ EXECUTIVE director of the pending discharge of a minor
5 not less than 7 days before the minor is discharged from the
6 hospital.

7 (4) Before a minor is discharged from a hospital ~~pursuant~~
8 ~~to~~ UNDER subsection (1), the ~~county~~ EXECUTIVE director, with
9 the assistance of the hospital, shall develop an individualized
10 ~~pre-release~~ PRERELEASE plan for the minor ~~pursuant to~~ IN
11 ACCORDANCE WITH section 209a.

12 (5) If the parent or guardian of a minor admitted to a hos-
13 pital ~~pursuant to~~ UNDER this chapter refuses to assume custody
14 of the minor upon discharge of the minor from the hospital, the
15 hospital director shall file or cause to be filed a petition in
16 the juvenile division of the probate court alleging that the
17 minor is within the provisions of section 2(b) of chapter XIIIA of
18 Act No. 288 of the Public Acts of 1939, being section 712A.2 of
19 the Michigan Compiled Laws, to ensure that the minor is provided
20 with appropriate management, care, and residence. Arrangements
21 considered suitable by the hospital director and agreed to by the
22 parent or guardian for care of the minor outside the home of the
23 parent or guardian ~~shall~~ DO not constitute refusal to assume
24 custody of the minor.

25 Sec. 500. As used in this chapter, unless the context
26 requires otherwise:

1 ~~(a) "Department" means the department of mental health or~~
2 ~~its official designee.~~

3 ~~(b) "Director" means the chief officer of a facility or a~~
4 ~~person authorized by a director to act on his or her behalf.~~

5 ~~(c) "Facility" means a facility, or portion of a facility,~~
6 ~~that is operated by or under contract with a public agency or is~~
7 ~~licensed by the state, and that regularly admits persons with~~
8 ~~developmental disabilities and provides residential and other~~
9 ~~services.~~

10 ~~(d) "Resident" means an individual who resides in a facility~~
11 ~~and receives services from a facility, or who is on an authorized~~
12 ~~leave of absence from the facility.~~

13 ~~(e) "Physician" means a person licensed by the state to~~
14 ~~practice medicine or osteopathic medicine, or the holder of a~~
15 ~~temporary license as provided by law.~~

16 ~~(f) "Psychologist" means a person who is knowledgeable in~~
17 ~~the field of developmental disabilities by virtue of training or~~
18 ~~experience, and who, pursuant to article 15 of the public health~~
19 ~~code, Act No. 368 of the Public Acts of 1978, being sections~~
20 ~~333.16101 to 333.18838 of the Michigan Compiled Laws, is licensed~~
21 ~~as a psychologist.~~

22 (A) "ADMINISTRATIVE ADMISSION" MEANS THE ADMISSION OF AN
23 INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY TO A CENTER PURSUANT
24 TO SECTION 509.

25 (B) ~~(g)~~ "Court" means the probate court of the county ~~of~~
26 ~~residence of a mentally retarded~~ IN WHICH AN individual ~~or of~~

1 ~~the county in which a mentally retarded individual~~ WITH A
2 DEVELOPMENTAL DISABILITY RESIDES OR was found.

3 ~~(h) "Mentally retarded" means significantly subaverage gen-~~
4 ~~eral intellectual functioning that originates during the develop-~~
5 ~~mental period and is associated with impairment in adaptive~~
6 ~~behavior.~~

7 ~~(i) "Developmental disability" means an impairment of gen-~~
8 ~~eral intellectual functioning or adaptive behavior that meets all~~
9 ~~of the following criteria:~~

10 ~~(i) It originated before the person became 22 years of age.~~

11 ~~(ii) It has continued since its origination or can be~~
12 ~~expected to continue indefinitely.~~

13 ~~(iii) It constitutes a substantial burden to the impaired~~
14 ~~person's ability to perform normally in society.~~

15 ~~(iv) It is attributable to 1 or more of the following:~~

16 ~~(A) Mental retardation, cerebral palsy, epilepsy, or~~
17 ~~autism.~~

18 ~~(B) Any other condition of a person found to be closely~~
19 ~~related to mental retardation because it produces a similar~~
20 ~~impairment or requires treatment and services similar to those~~
21 ~~required for a person who is mentally retarded.~~

22 ~~(C) Dyslexia resulting from a condition described in sub-~~
23 ~~paragraph (A) or (B).~~

24 ~~(j) "Discharge" means the official release of an individual~~
25 ~~from a facility by action of the facility or a court.~~

26 (C) "CRITERIA FOR JUDICIAL ADMISSION" MEANS THE CRITERIA
27 SPECIFIED IN SECTION 515 FOR ADMISSION OF AN ADULT WITH A

1 DEVELOPMENTAL DISABILITY TO A CENTER, PRIVATE FACILITY, OR
2 ALTERNATIVE PROGRAM OF CARE AND TREATMENT UNDER SECTION 518.

3 (D) "PRIVATE FACILITY" MEANS AN ADULT FOSTER CARE FACILITY
4 OPERATED UNDER CONTRACT WITH A COMMUNITY MENTAL HEALTH SERVICES
5 PROGRAM OR ON A PRIVATE PAY BASIS THAT AGREES TO DO BOTH OF THE
6 FOLLOWING:

7 (i) ACCEPT THE JUDICIAL ADMISSION OF AN INDIVIDUAL WITH
8 DEVELOPMENTAL DISABILITY.

9 (ii) FULFILL THE DUTIES OF A CENTER AS DESCRIBED IN THIS
10 CHAPTER.

11 Sec. 502. An individual shall be admitted to a ~~facility~~
12 CENTER only pursuant to the provisions of this act.

13 Sec. 503. (1) ~~No~~ AN individual under 18 years of age
14 ~~may~~ SHALL NOT be judicially admitted to a CENTER, PRIVATE
15 facility, OR OTHER RESIDENTIAL PROGRAM.

16 (2) Administrative admission under section 509 is the pre-
17 ferred form of admission for individuals 18 years of age or
18 older.

19 Sec. 505. (1) Six months prior to the eighteenth birthday
20 of each resident in a ~~facility~~ CENTER, the resident shall be
21 evaluated by the ~~facility~~ CENTER for the purpose of determining
22 whether he OR SHE is competent to execute an application for
23 administrative admission.

24 (2) If it is determined by the ~~facility~~ CENTER that the
25 resident is not competent to execute an application for adminis-
26 trative admission, or otherwise requires the protective services
27 of a guardian, ~~his~~ A parent, or if none, another interested

1 person or entity, THE PARENT, GUARDIAN, OR INTERESTED PARTY shall
2 be ~~so~~ notified and requested to file a petition for the
3 appointment of a plenary or partial guardian. If ~~not~~ A peti-
4 tion is NOT filed, the ~~facility~~ CENTER may, but need not, file
5 ~~such~~ a petition.

6 Sec. 508. (1) An individual WITH A DEVELOPMENTAL DISABILITY
7 REFERRED BY A COMMUNITY MENTAL HEALTH SERVICES PROGRAM may be
8 temporarily admitted to a ~~facility~~ CENTER for appropriate
9 ~~purposes, including respite care,~~ CLINICAL SERVICES if an
10 application for temporary admission is executed by a person
11 legally empowered to make the application and if it is determined
12 that the individual is suitable for admission. The services to
13 be provided to the individual shall be determined by mutual
14 agreement between the ~~facility~~ COMMUNITY MENTAL HEALTH SERVICES
15 PROGRAM, THE CENTER, and the person making the application,
16 except that no individual may be temporarily admitted for more
17 than 30 days.

18 (2) An application for temporary admission shall contain the
19 substance of subsection (1).

20 Sec. 509. (1) An individual WITH A DEVELOPMENTAL DISABILITY
21 under 18 years of age ~~may be admitted~~ SHALL BE REFERRED BY A
22 COMMUNITY MENTAL HEALTH SERVICES PROGRAM BEFORE BEING CONSIDERED
23 FOR ADMINISTRATIVE ADMISSION to a ~~facility on an administrative~~
24 ~~admission basis if an~~ CENTER. AN application for ~~his~~ THE
25 INDIVIDUAL'S admission ~~is~~ SHALL BE executed by ~~his~~ A parent,
26 guardian, or, in the absence of a parent or guardian, a person in

1 loco parentis ~~and~~ if it is determined that ~~he~~ THE MINOR is
2 suitable for admission.

3 (2) An individual WITH A DEVELOPMENTAL DISABILITY WHO IS 18
4 years of age or older AND IS REFERRED BY A COMMUNITY MENTAL
5 HEALTH SERVICES PROGRAM may be admitted to a ~~facility~~ CENTER on
6 an administrative admission basis if an application for ~~his~~ THE
7 INDIVIDUAL'S admission is executed by the individual ~~himself~~ if
8 ~~he is~~ competent to do so, or by ~~his~~ A guardian if ~~he~~ THE
9 INDIVIDUAL is not competent to do so, and if it is determined
10 that ~~he~~ THE INDIVIDUAL is suitable for admission.

11 (3) An application for administrative admission shall con-
12 tain in large type and simple language the substance of sections
13 510, 511, and 512. At the time of admission, the rights set
14 forth in the application shall be explained to the resident and
15 to the person who executed the application for ~~his~~ admission.
16 In addition, a copy of the application shall be given to the
17 ~~forementioned persons~~ RESIDENT, THE PERSON WHO EXECUTED THE
18 APPLICATION, and to ~~one~~ 1 other person designated by the
19 resident.

20 Sec. 510. (1) Prior to the administrative admission of any
21 individual, the individual may be received by ~~a facility~~ THE
22 CENTER DESIGNATED AND APPROVED BY THE COMMUNITY MENTAL HEALTH
23 SERVICES PROGRAM for up to 10 days in order for a preadmission
24 examination to be conducted. No individual may be administra-
25 tively admitted unless ~~he has been~~ THE INDIVIDUAL WAS REFERRED
26 BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM AND WAS given a

1 preadmission examination by the ~~facility~~ CENTER for the purpose
2 of determining ~~his~~ THE INDIVIDUAL'S suitability for admission.

3 (2) The preadmission examination shall include mental, phys-
4 ical, social, and educational evaluations, and shall be conducted
5 under the supervision of a ~~qualified~~ MENTAL HEALTH
6 professional. ~~person.~~ The results of the examination shall be
7 contained in a report to be made part of the individual's record,
8 and the report shall also contain a statement indicating the most
9 appropriate living arrangement ~~for the examined individual~~ THAT
10 IS NECESSARY TO MEET THE INDIVIDUAL'S TREATMENT NEEDS.

11 (3) At least once annually each administratively admitted
12 resident shall be reexamined for the purpose of determining
13 whether he OR SHE continues to be suitable for admission.

14 Sec. 511. (1) Objection may be made to the admission of any
15 administratively admitted resident. Objections may be filed with
16 the court by a person found suitable by the court or by the resi-
17 dent himself OR HERSELF if he OR SHE is at least 13 years of
18 age. An objection may be made not more than 30 days after admis-
19 sion of the resident, and may be made subsequently at any 6-month
20 interval following the date of the original objection or, if an
21 original objection ~~were~~ WAS not made, at any 6-month interval
22 following the date of admission.

23 (2) An objection shall be made in writing, except that if
24 made by the resident, an objection to admission may be communi-
25 cated to the court or judge of probate AND THE EXECUTIVE DIRECTOR
26 OF THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM by any means,
27 including but not limited to oral communication or informal

1 letter. If the resident informs the ~~facility~~ CENTER that he OR
2 SHE desires to object to ~~his~~ THE admission, the ~~facility~~
3 CENTER shall assist ~~him~~ THE RESIDENT in submitting his OR HER
4 objection to the court.

5 (3) Upon receiving notice of an objection, the court shall
6 schedule a hearing to be held within 7 days, excluding Sundays
7 and holidays. The court shall notify the person who objected,
8 the resident, the person who executed the application, THE EXECU-
9 TIVE DIRECTOR, and the director of the ~~facility~~ CENTER of the
10 time and place of the hearing.

11 (4) The hearing shall be governed by those provisions of
12 sections 517 to 522, including the appointment of counsel and an
13 independent medical or psychological evaluation, ~~which~~ THAT the
14 court deems necessary to ensure that all relevant information is
15 brought to its attention, and by the provisions of this section.

16 (5) The court shall sustain the objection and order the dis-
17 charge of the resident if the resident is not in need of the care
18 and treatment ~~which~~ THAT is available at the ~~facility~~ CENTER
19 or if an alternative to THE care and treatment PROVIDED in a
20 ~~facility~~ CENTER is available and adequate to meet the
21 resident's needs.

22 (6) Unless the court sustains the objection and orders the
23 discharge of the resident, the ~~facility~~ CENTER may continue to
24 provide residential and other services to the resident.

25 (7) Unwillingness or inability of the parent, guardian, or
26 person in loco parentis to provide for the resident's management,
27 care, or residence shall not be grounds for refusing to sustain

1 the objection and order discharge, but in that event the
2 objecting person may, or a person authorized by the court shall,
3 promptly file a petition under ~~the neglect provisions of the~~
4 ~~juvenile code~~ SECTION 637 OR, IF THE RESIDENT IS A JUVENILE,
5 UNDER SECTION 2 OF CHAPTER XIIA OF ACT NO. 288 OF THE PUBLIC ACTS
6 OF 1939, BEING SECTION 712A.2 OF THE MICHIGAN COMPILED LAWS, to
7 ensure that suitable management, care, or residence is provided.

8 Sec. 512. (1) A ~~facility~~ CENTER may detain an administra-
9 tively admitted resident for a period not exceeding 3 days from
10 the time that the person who executed the application for the
11 resident's admission gives written notice to the ~~facility~~
12 CENTER of his OR HER intention that the resident leave the
13 ~~facility~~ CENTER.

14 (2) When a ~~facility~~ CENTER is notified of ~~an~~ A
15 RESIDENT'S intention ~~that a resident~~ TO leave the ~~facility~~
16 CENTER, it shall promptly supply an appropriate form to the
17 person who made the notification AND NOTIFY THE APPROPRIATE COM-
18 MUNITY MENTAL HEALTH SERVICES PROGRAM.

19 Sec. 515. A court may order the admission of an individual
20 18 years of age or older who MEETS BOTH OF THE FOLLOWING
21 REQUIREMENTS:

22 (a) ~~is mentally retarded; and~~ HAS BEEN DIAGNOSED AS AN
23 INDIVIDUAL WITH MENTAL RETARDATION.

24 (b) Can be reasonably expected within the near future to
25 intentionally or unintentionally seriously physically injure him-
26 self OR HERSELF or another person, and has overtly acted in a
27 manner substantially supportive of that expectation.

1 Sec. 516. (1) Any person found suitable by the court may
2 file with the court a petition ~~which~~ THAT asserts that an indi-
3 vidual meets the criteria for judicial admission specified in
4 section 515.

5 (2) The petition shall contain the alleged facts ~~which~~
6 THAT are the basis for the assertion, the names and addresses, if
7 known, of any witnesses to alleged and relevant facts, and if
8 known the name and address of the nearest relative or guardian of
9 the individual.

10 (3) If the petition appears on its face to be sufficient,
11 the court shall order that the individual be examined and a
12 report be prepared. To this end, the court shall appoint a qual-
13 ified person who may but need not be an employee of ~~the state,~~
14 the ~~county,~~ COMMUNITY MENTAL HEALTH SERVICES PROGRAM or the
15 court to arrange for the examination, to prepare the report, and
16 to file it with the court.

17 (4) If it appears to the court that the individual will not
18 comply with an order of examination under subsection (3), the
19 court may order a peace officer to take the individual into pro-
20 tective custody and transport him OR HER immediately to a
21 ~~facility~~ CENTER recommended by the community mental health
22 services program or other suitable place DESIGNATED BY THE COMMU-
23 NITY MENTAL HEALTH SERVICES PROGRAM for up to 48 hours for the
24 ordered examination.

25 (5) After examination, the individual shall be allowed to
26 return home unless it appears to the court that he OR SHE
27 requires immediate admission to ~~a facility~~ THE COMMUNITY MENTAL

1 HEALTH SERVICES PROGRAM'S RECOMMENDED CENTER in order to prevent
2 physical harm to himself OR HERSELF or others pending a hearing,
3 in which case the court shall enter an order to that effect. If
4 an individual is ordered admitted ~~pursuant to~~ UNDER this sub-
5 section, not later than 12 hours after he OR SHE is admitted the
6 ~~facility~~ CENTER shall ~~cause~~ PROVIDE him ~~to receive~~ OR HER
7 WITH a copy of the petition, a copy of the report, and a written
8 statement in simple terms explaining ~~his~~ THE INDIVIDUAL'S
9 rights to a ~~preliminary~~ hearing ~~pursuant to subsection (8)~~
10 UNDER SECTION 517, to be present at the ~~preliminary~~ hearing and
11 to be represented by legal counsel, if ~~one~~ 1 physician and
12 ~~one~~ 1 psychologist or 2 physicians conclude that the individual
13 meets the criteria for judicial admission.

14 (6) The report required by subsection (3) shall contain ALL
15 OF THE FOLLOWING:

16 (a) Evaluations of the individual's mental, physical,
17 social, and educational condition.

18 (b) A conclusion as to whether the individual meets the cri-
19 teria for judicial admission specified in section 515.

20 (c) A list of available forms of care and treatment ~~which~~
21 THAT may serve as an alternative to admission to a ~~facility~~
22 CENTER.

23 (d) A judgment as to the most appropriate living arrangement
24 for the individual IN TERMS OF TYPE AND LOCATION OF LIVING
25 ARRANGEMENT AND THE AVAILABILITY OF REQUISITE SUPPORT SERVICES.

1 (e) The signatures of ~~one~~ 1 physician and ~~one~~ 1
2 psychologist or 2 physicians who performed examinations serving
3 in part as the basis of the report.

4 (7) A COPY OF THE REPORT REQUIRED UNDER SUBSECTION (3) SHALL
5 BE SENT TO THE COURT IMMEDIATELY UPON COMPLETION.

6 (8) ~~(7)~~ The petition shall be dismissed by the court
7 unless ~~one~~ 1 physician and ~~one~~ 1 psychologist or 2 physicians
8 conclude, and that conclusion is stated in the report, that the
9 individual meets the criteria for judicial admission.

10 (9) ~~(8)~~ An individual whose admission was ordered
11 ~~pursuant to~~ UNDER subsection (5) is entitled to a ~~preliminary~~
12 hearing ~~as follows.~~ IN ACCORDANCE WITH SECTION 517.

13 ~~(a) Within 5 days after an individual is admitted to a~~
14 ~~facility, a preliminary hearing shall be convened to determine~~
15 ~~whether there is probable cause to believe that the individual~~
16 ~~meets the criteria for judicial admission.~~

17 ~~(b) The court shall cause timely notice of the time and~~
18 ~~place of the preliminary hearing and of the grounds, reasons, and~~
19 ~~necessity for his admission to be given to the individual.~~

20 ~~(c) The individual has the right to be present and repre-~~
21 ~~sented by legal counsel at the preliminary hearing.~~

22 ~~(d) If probable cause to believe that the individual meets~~
23 ~~the criteria for judicial admission is not established at the~~
24 ~~preliminary hearing, the individual shall be ordered discharged~~
25 ~~from the facility.~~

26 Sec. 517. (1) Hearings ~~, other than preliminary hearings,~~
27 convened to determine whether an individual meets the criteria

1 for judicial admission shall be governed by sections 517 to 522.
2 ~~except that they shall~~ SECTIONS 517 TO 522 DO not ~~perforce~~
3 ~~be applicable~~ APPLY to the hearing provided for in section 511
4 CONCERNING AN OBJECTION TO AN ADMINISTRATIVE ADMISSION.

5 (2) Upon receipt of a petition and a report as provided for
6 in section 516 or 532, or receipt of a petition as provided for
7 in section 531, the court shall DO ALL OF THE FOLLOWING:

8 (a) Fix a date for a hearing ~~on said date~~ to be HELD within
9 ~~14~~ 7 days, ~~of~~ EXCLUDING SUNDAYS OR HOLIDAYS, AFTER the
10 court's receipt of the documents or document.

11 (b) Fix a place for a hearing, either ~~in~~ AT a ~~facility~~
12 CENTER or other convenient place, within or ~~without~~ OUTSIDE OF
13 the county.

14 (c) Cause notice of a petition and of the time and place of
15 any hearing to be given to the individual asserted to meet the
16 criteria for judicial admission, his OR HER attorney, the peti-
17 tioner, the prosecuting or other attorney specified in subsection
18 (4), THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM, the director
19 of any ~~facility~~ CENTER to which the individual is admitted, the
20 individual's spouse if his or her whereabouts are known, the
21 guardian, if any, of the individual, and ~~such~~ other relatives
22 or persons as the court may determine. ~~Such~~ THE notice shall
23 be given at the earliest practicable time and sufficiently in
24 advance of the hearing date to permit preparation for the
25 hearing.

26 (d) Cause the individual to be given within 4 days of the
27 court's receipt of the documents described in section 516 a copy

1 of the petition, a copy of the report, unless ~~he~~ THE INDIVIDUAL
2 has previously been given a copy of the petition and the report,
3 notice of ~~his~~ THE right to a full court hearing, notice of
4 ~~his~~ THE right to be present at the hearing, notice of ~~his~~ THE
5 right to be represented by legal counsel, notice of ~~his~~ THE
6 right to demand a jury trial, and notice of ~~his~~ THE right to an
7 independent medical or psychological evaluation.

8 (e) Subsequently give copies of all orders to the persons
9 identified in subdivision (c).

10 (3) The individual asserted to meet the criteria for judi-
11 cial admission is entitled to be represented by legal counsel in
12 the same manner as counsel is provided ~~pursuant to~~ UNDER sec-
13 tion 454, and is entitled TO ALL OF THE FOLLOWING:

14 (a) To be present at the hearing.

15 (b) To have upon demand a trial by jury of 6.

16 (c) To obtain a continuance for any reasonable time for good
17 cause.

18 (d) To present documents and witnesses.

19 (e) To cross-examine witnesses.

20 (f) To require testimony in court in person from ~~one~~ 1
21 physician or ~~one~~ 1 psychologist who has personally examined
22 ~~him~~ THE INDIVIDUAL.

23 (g) To receive an independent examination by a physician or
24 psychologist of his OR HER choice on the issue of whether he OR
25 SHE meets the criteria for judicial admission.

26 (4) The prosecuting attorney of the county in which a court
27 has its principal office shall participate, either in person or

1 by assistant, in hearings convened by the court of his OR HER
 2 county under this chapter, except that a prosecutor need not par-
 3 ticipate in or be present at a hearing whenever a petitioner or
 4 some other appropriate person has retained private counsel who
 5 will be present in court and will present to the court the case
 6 for a finding that the individual meets the criteria for judicial
 7 admission.

8 (5) Unless the individual or his OR HER attorney objects,
 9 the failure to timely notify a spouse, guardian, or other person
 10 determined by the court to be entitled to notice ~~shall~~ IS not
 11 ~~be~~ cause to adjourn or continue any hearing.

12 (6) The individual, any interested person, or the court on
 13 its own motion may request a change of venue because of resi-
 14 dence; ~~—~~ convenience to parties, witnesses, or the court; ~~—~~
 15 or the individual's mental or physical condition.

16 Sec. 518. (1) If the court finds that an individual does
 17 not meet the criteria for judicial admission, the court shall
 18 enter a finding to that effect, shall dismiss the petition, and
 19 shall direct that the individual be discharged if he OR SHE has
 20 been admitted to a ~~facility~~ CENTER prior to the hearing.

21 (2) If the individual is found to meet the criteria for
 22 judicial admission, the court ~~may~~ SHALL DO 1 OF THE FOLLOWING:

23 (a) Order the individual to be admitted to a ~~facility~~
 24 CENTER designated by the department AND RECOMMENDED BY THE COMMU-
 25 NITY MENTAL HEALTH SERVICES PROGRAM.

26 (b) Order the individual to be admitted to ~~any other public~~
 27 ~~or~~ A private facility ~~if it agrees~~ AT THE REQUEST OF THE

1 INDIVIDUAL OR HIS OR HER FAMILY MEMBER, IF PRIVATE FUNDS ARE TO
2 BE UTILIZED AND THE PRIVATE FACILITY COMPLIES WITH ALL OF THE
3 ADMISSION, CONTINUING CARE, AND DISCHARGE DUTIES AND REQUIREMENTS
4 DESCRIBED IN THIS CHAPTER FOR CENTERS.

5 (c) Order the individual to ~~receive~~ UNDERGO A PROGRAM FOR
6 1 YEAR OF care and treatment ~~other than admission~~ RECOMMENDED
7 BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM AS AN ALTERNATIVE
8 TO BEING ADMITTED to a ~~facility for a period of one year~~
9 CENTER.

10 Sec. 519. (i) Prior to ~~ordering a course of care and~~
11 ~~treatment~~ MAKING AN ORDER OF DISPOSITION pursuant to section
12 518(2), the court shall consider ordering a course of care and
13 treatment ~~which~~ THAT is an alternative to admission to a
14 ~~facility~~ CENTER. To that end, the court shall review the
15 report submitted to it pursuant to ~~sections~~ SECTION 516(6)(c)
16 and (d).

17 (2) If the court finds that a program of care and treatment
18 other than admission to a ~~facility~~ CENTER is adequate to meet
19 the individual's care and treatment needs and is sufficient to
20 prevent harm or injury which the individual may inflict upon him-
21 self OR HERSELF or others, the court shall order the individual
22 to receive whatever care and treatment is appropriate ~~pursuant~~
23 ~~to~~ UNDER section 518(2)(c).

24 (3) If at the end of one year it is believed that the indi-
25 vidual continues to meet the criteria for judicial admission, a
26 new petition may be filed ~~pursuant to~~ UNDER section 516.

1 (4) If at any time during the ~~one year~~ 1-YEAR period it
2 comes to the attention of the court either that an individual
3 ordered to undergo a program of alternative care and treatment is
4 not complying with the order or that the alternative care and
5 treatment has not been sufficient to prevent harm or injuries
6 which the individual may be inflicting upon himself OR HERSELF or
7 others, the court may without a hearing and based upon the record
8 and other available information DO EITHER OF THE FOLLOWING:

9 (a) Consider other alternatives to admission to a ~~facility~~
10 CENTER, modify its original order, and direct the individual to
11 undergo another program of alternative care and treatment for the
12 remainder of the ~~one year~~ 1-YEAR period. ~~, or~~

13 (b) Enter a new order pursuant to section 518(2)(a) or (b)
14 directing that the individual be admitted to a ~~facility~~ CENTER
15 RECOMMENDED BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM. If
16 the individual refuses to comply with this order, the court may
17 direct a peace officer to take the individual into protective
18 custody and transport him OR HER to ~~a facility~~ THE CENTER REC-
19 OMMENDED BY THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM.

20 Sec. 520. Prior to ordering the admission of an individual,
21 the court shall inquire into the adequacy of care and treatment
22 to be provided to the individual by the ~~facility~~ DESIGNATED
23 CENTER. Admission shall not be ordered unless the ~~facility~~
24 RECOMMENDED CENTER to which the individual is to be admitted can
25 provide ~~him~~ THE INDIVIDUAL with care and treatment ~~which~~ THAT
26 is adequate and appropriate to his OR HER condition.

1 Sec. 521. Preference between the ~~department designated~~
2 ~~facility~~ CENTER RECOMMENDED BY THE COMMUNITY MENTAL HEALTH
3 SERVICES PROGRAM and other available facilities UNDER CONTRACT
4 WITH THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM shall be given
5 to the facility ~~which~~ THAT CAN APPROPRIATELY MEET THE
6 INDIVIDUAL'S NEEDS IN THE LEAST RESTRICTIVE ENVIRONMENT AND THAT
7 is located nearest to the individual's residence. ~~except when~~
8 IF the individual requests ~~otherwise~~ IT or there are other com-
9 pelling reasons for an order reversing the preference, THE COMMU-
10 NITY MENTAL HEALTH SERVICES PROGRAM MAY PLACE THE INDIVIDUAL IN A
11 FACILITY THAT IS NOT THE NEAREST TO THE INDIVIDUAL'S RESIDENCE.

12 Sec. 522. An independent medical or psychological examiner
13 appointed for an individual ~~pursuant to~~ UNDER this chapter
14 shall, if the individual is indigent, be compensated by the
15 ~~state~~ COUNTY'S COMMUNITY MENTAL HEALTH SERVICES PROGRAM in an
16 amount ~~which~~ THAT is reasonable and based upon time and
17 expenses.

18 Sec. 525. (1) The director of a ~~facility~~ CENTER may at
19 any time discharge an administratively or judicially admitted
20 resident whom the director ~~deems~~ CONSIDERS suitable for
21 discharge.

22 (2) The director of a ~~facility~~ CENTER shall discharge a
23 resident admitted by court order when the resident no longer
24 meets the criteria for judicial admission.

25 (3) If a resident discharged ~~pursuant to~~ UNDER subsection
26 (1) or (2) has been admitted to a ~~facility~~ CENTER by court
27 order, or if court proceedings are pending, BOTH the court AND

1 THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM shall be notified of
2 the discharge by the ~~facility~~ CENTER.

3 Sec. 527. If, upon the discharge of an individual admitted
4 by court order or UPON termination of alternative care and treat-
5 ment to an individual receiving care and treatment ~~pursuant to~~
6 UNDER section 518(2), ~~it is determined~~ THE COMMUNITY MENTAL
7 HEALTH SERVICES PROGRAM DETERMINES that ~~he~~ THE INDIVIDUAL would
8 benefit from the receipt of further care and treatment, IT SHALL
9 MAKE ARRANGEMENTS WITH the ~~facility~~ CENTER or provider of
10 alternative care and treatment ~~shall offer~~ TO CONTINUE TO
11 PROVIDE appropriate care and treatment to ~~him~~ THE INDIVIDUAL on
12 an administrative basis, or IT shall ~~aid him~~ ASSIST THE
13 INDIVIDUAL to obtain APPROPRIATE care and treatment from another
14 source.

15 Sec. 528. (1) ~~All~~ EXCEPT AS PROVIDED IN SUBSECTION (2),
16 ALL leaves or absences from a ~~facility~~ CENTER other than
17 release or discharge and all revocations of leaves and absences
18 under section 537 shall be governed in accordance with rules or
19 procedures established by the department or, ~~the facility,~~
20 ~~except that a~~ IN THE CASE OF A PRIVATE FACILITY, IN ACCORDANCE
21 WITH PROCEDURES OF ITS GOVERNING BOARD.

22 (2) A resident who has been admitted subject to a court
23 order and who has been on an authorized leave or absence from the
24 ~~facility~~ CENTER for a continuous period of ~~one~~ 1 year shall
25 be discharged. Upon ~~such~~ THE discharge, the court shall be
26 notified by the ~~facility~~ CENTER.

1 Sec. 531. (1) Every resident admitted by court order has
2 the right to regular, adequate, and prompt review of his OR HER
3 current status as ~~a person~~ AN INDIVIDUAL meeting the criteria
4 for judicial admission. Six months ~~from~~ AFTER the date of an
5 order of judicial admission, and every 6 months ~~thereafter~~
6 AFTER THAT, the director of ~~any facility~~ A CENTER to which a
7 resident was admitted shall review the resident's status as ~~a~~
8 ~~person~~ AN INDIVIDUAL meeting the criteria for judicial
9 admission.

10 (2) The results of each periodic review shall be made part
11 of the resident's record, and shall be filed within 5 days of the
12 review in the form of a written report with the court ~~which~~
13 THAT ordered the resident's admission, and within ~~said~~ THE 5
14 days, notice of the results of the review shall be given by the
15 facility to the resident, his OR HER attorney, and his OR HER
16 nearest relative or guardian.

17 (3) If the report concludes that the resident continues to
18 meet the criteria for judicial admission, and the resident or
19 someone on his OR HER behalf objects to that conclusion, ~~he~~
20 ~~shall have~~ THE RESIDENT HAS the right to a hearing and all other
21 rights expressed or implied in sections 517 to 522 and may peti-
22 tion the court for discharge. The petition shall be presented to
23 the court or a representative of the ~~facility~~ CENTER within 7
24 days, excluding Sundays and holidays, after the report is
25 received. If the petition is presented to a representative of
26 the ~~facility, he~~ CENTER, THE REPRESENTATIVE shall transmit it
27 to the court ~~forthwith~~ IMMEDIATELY.

1 Sec. 536. (1) A resident in a ~~department facility~~ CENTER
2 may be transferred to any other ~~facility~~ CENTER, or to a hospi-
3 tal operated by the department, if the transfer would not be det-
4 rimental to the resident and ~~if the department~~ RESPONSIBLE
5 COMMUNITY MENTAL HEALTH SERVICES PROGRAM approves the transfer.

6 (2) The resident and his OR HER nearest relative or guardian
7 shall be notified at least 7 days prior to any transfer, except
8 that a transfer may be effected earlier if necessitated by an
9 emergency. In addition, the resident may designate 2 other per-
10 sons to receive the notice. If the resident, his OR HER nearest
11 relative, or guardian objects to the transfer, the department
12 shall provide an opportunity to appeal the transfer.

13 (3) If a transfer is effected due to an emergency, the
14 required notices shall be given as soon as possible, but not
15 later than 24 hours after the transfer.

16 Sec. 537. (1) An individual is subject to being returned to
17 a ~~facility~~ CENTER if BOTH OF THE FOLLOWING ARE TRUE:

18 (a) ~~He~~ THE INDIVIDUAL was admitted to a ~~facility~~ CENTER
19 on an application executed by someone other than himself OR
20 HERSELF or by judicial order. ~~and~~

21 (b) ~~He~~ THE INDIVIDUAL has left the ~~facility~~ CENTER with-
22 out authorization, or has refused a lawful request to return to
23 the ~~facility~~ CENTER while on an authorized leave or other
24 authorized absence from the ~~facility~~ CENTER.

25 (2) The ~~facility~~ CENTER may notify peace officers that an
26 individual is subject to being returned to the ~~facility~~
27 CENTER. Upon ~~such~~ notification, a peace officer shall take the

1 individual into protective custody and return him OR HER to the
2 ~~facility~~ CENTER unless contrary directions have been given by
3 the ~~facility~~ CENTER OR THE RESPONSIBLE COMMUNITY MENTAL HEALTH
4 SERVICES PROGRAM.

5 (3) An opportunity for appeal shall be provided to any indi-
6 vidual returned over his OR HER objection from any authorized
7 leave in excess of 10 days, and the individual shall be notified
8 of his OR HER right to appeal. In the case of a child less than
9 13 years of age, the appeal shall be made by his OR HER parent or
10 guardian.

11 Sec. 540. (1) ~~No~~ A determination that an individual meets
12 the criteria for judicial admission, ~~no~~ A court order directing
13 that an individual be admitted to a ~~facility~~ CENTER or receive
14 alternative care and treatment, ~~nor~~ OR any form of admission to
15 a PRIVATE facility shall NOT give rise to a presumption of, con-
16 stitute a finding of, or operate as an adjudication of legal
17 incompetence.

18 (2) ~~No~~ AN order of commitment under any previous statute
19 of this state shall NOT, in the absence of a concomitant appoint-
20 ment of a guardian, constitute a finding of or operate as an
21 adjudication of legal incompetence.

22 Sec. 541. ~~Individuals~~ AN INDIVIDUAL admitted to
23 ~~facilities after the effective date of this chapter~~ A CENTER
24 shall at the time of admission receive a copy of section 540. ~~7~~
25 ~~and residents presently residing in facilities shall also receive~~
26 ~~a copy.~~ An individual discharged from a ~~facility~~ CENTER shall
27 receive a copy of section 540 upon request.

1 Sec. 600. As used in this chapter, unless the context
2 requires otherwise:

3 (a) "Facility" means ~~a~~ ALL OF THE FOLLOWING THAT REGULARLY
4 ADMIT INDIVIDUALS WITH DEVELOPMENTAL DISABILITY AND PROVIDE RESI-
5 DENTIAL AND OTHER SERVICES:

6 (i) A FACILITY AS DEFINED IN SECTION 100B.

7 (ii) A child caring institution, a boarding school, a conva-
8 lescent home, ~~an adult foster care facility for more than 6~~
9 ~~residents,~~ a nursing home or home for the aged, ~~a mental hospi-~~
10 ~~tal, psychiatric hospital or psychiatric unit and an institution~~
11 ~~or A community residential program. which is licensed by the~~
12 ~~state, and which regularly admits developmentally disabled per-~~
13 ~~sons and provides residential and other services.~~

14 ~~(b) "Physician" means a person licensed by the state to~~
15 ~~practice medicine or osteopathic medicine, or the holder of a~~
16 ~~temporary license as provided by law.~~

17 ~~(c) "Psychologist" means a person who is knowledgeable in~~
18 ~~the field of developmental disabilities by virtue of training or~~
19 ~~experience, and who, pursuant to Act No. 368 of the Public Acts~~
20 ~~of 1978, as amended, being sections 333.18201 to 333.18237 of the~~
21 ~~Michigan Compiled Laws, is licensed as a full or limited psychol-~~
22 ~~ogist, pursuant to section 18223(1) and (3), is entitled to use~~
23 ~~the term psychologist or possesses training and experience equiv-~~
24 ~~alent to that necessary for licensure as a psychologist.~~

25 (B) ~~(d)~~ "Court" means the probate court for the county of
26 residence of ~~a developmentally disabled person~~ AN INDIVIDUAL
27 WITH DEVELOPMENTAL DISABILITY, or for the county in which ~~a~~

1 ~~developmentally disabled person~~ THE INDIVIDUAL was found if a
 2 county of residence cannot be determined.

3 ~~(e) "Developmental disability" means an impairment of gen-~~
 4 ~~eral intellectual functioning or adaptive behavior which meets~~
 5 ~~the following criteria:~~

6 ~~(i) It has continued since its origination or can be~~
 7 ~~expected to continue indefinitely.~~

8 ~~(ii) It constitutes a substantial burden to the impaired~~
 9 ~~person's ability to perform normally in society.~~

10 ~~(iii) It is attributable to + or more of the following:~~

11 ~~(A) Mental retardation, cerebral palsy, epilepsy, or~~
 12 ~~autism.~~

13 ~~(B) Any other condition of a person found to be closely~~
 14 ~~related to mental retardation because it produces a similar~~
 15 ~~impairment or requires treatment and services similar to those~~
 16 ~~required for a person who is mentally retarded.~~

17 ~~(C) Dyslexia resulting from a condition described in sub-~~
 18 ~~paragraph (A) or (B).~~

19 ~~(f) "Developmentally disabled person" means a person suffer-~~
 20 ~~ing a developmental disability.~~

21 ~~(g) "Mentally retarded person" means an individual having~~
 22 ~~significantly subaverage general intellectual functioning.~~

23 (C) ~~(h)~~ "Interested person or entity" means an adult rela-
 24 tive or friend of the respondent, an official or representative
 25 of a public or private agency, corporation, or association con-
 26 cerned with the ~~person's~~ INDIVIDUAL'S welfare, or any other
 27 person found suitable by the court.

1 (D) ~~(i)~~ "Plenary guardian" means a guardian who possesses
 2 the legal rights and powers of a full guardian of the person, or
 3 of the estate, or both.

4 (E) ~~(j)~~ "Partial guardian" means a guardian who possesses
 5 fewer than all of the legal rights and powers of a plenary guard-
 6 ian, and whose rights, powers, and duties have been specifically
 7 enumerated by court order.

8 (F) "RESPONDENT" MEANS THE INDIVIDUAL WHO IS THE SUBJECT OF
 9 A PETITION FOR GUARDIANSHIP FILED UNDER THIS CHAPTER.

10 Sec. 602. (1) Guardianship for ~~developmentally disabled~~
 11 ~~persons~~ INDIVIDUALS WITH DEVELOPMENTAL DISABILITY shall be uti-
 12 lized only as is necessary to promote and protect the well-being
 13 of the ~~person~~ INDIVIDUAL, including protection from neglect,
 14 exploitation, and abuse; shall be designed to encourage the
 15 development of maximum self-reliance and independence in the
 16 ~~person~~ INDIVIDUAL; and shall be ordered only to the extent
 17 necessitated by the ~~person's~~ INDIVIDUAL'S actual mental and
 18 adaptive limitations.

19 (2) If the court determines that some form of guardianship
 20 is necessary, partial guardianship ~~shall be~~ IS the preferred
 21 form of guardianship for ~~a developmentally disabled person~~ AN
 22 INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY.

23 Sec. 607. (1) A court, upon filing of a petition for guard-
 24 ianship ~~pursuant to~~ UNDER this chapter and before the appoint-
 25 ment of a plenary or partial guardian, or pending an appeal or
 26 action in relation to the appointment, under emergency
 27 circumstances and if necessary for the welfare or protection of

1 ~~a developmentally disabled person~~ AN INDIVIDUAL WITH A
2 DEVELOPMENTAL DISABILITY, may temporarily exercise the powers of
3 a guardian over ~~a developmentally disabled person~~ AN INDIVIDUAL
4 WITH A DEVELOPMENTAL DISABILITY, or may appoint a temporary
5 guardian whose powers and duties shall be specifically enumerated
6 by court order.

7 (2) If the court, ~~pursuant to~~ UNDER subsection (1), exer-
8 cises the powers of a guardian or appoints a temporary guardian
9 ~~—~~ before the appointment of a plenary or partial guardian, a
10 hearing on the petition for guardianship shall be held within 14
11 days, or at a time fixed ~~pursuant to~~ UNDER section 614, which-
12 ever is earlier.

13 (3) If the court, ~~pursuant to~~ UNDER subsection (1), exer-
14 cises the powers of a guardian or appoints a temporary guardian
15 pending an appeal or action in relation to the appointment of a
16 guardian under this chapter, a hearing shall be held within 14
17 days to determine whether the ~~developmentally disabled person~~
18 INDIVIDUAL is in need of the services of a guardian for the
19 ~~person's~~ INDIVIDUAL'S welfare or protection during the pendency
20 of the appeal or action. If the court determines by clear and
21 convincing evidence that a need exists, the court may appoint a
22 temporary guardian whose powers and duties shall be specifically
23 enumerated by court order and whose authority shall expire upon
24 resolution of the appeal or action.

25 (4) At a hearing held ~~pursuant to~~ UNDER either subsection
26 (2) or (3), a respondent shall have all the rights and privileges

1 otherwise available to ~~a person~~ AN INDIVIDUAL subject to
2 proceedings under this chapter.

3 Sec. 612. (1) The petition for the appointment of a guard-
4 ian for ~~a person~~ AN INDIVIDUAL who ~~is developmentally~~
5 ~~disabled~~ HAS A DEVELOPMENTAL DISABILITY shall be accompanied by
6 a report ~~which~~ THAT contains ALL OF THE FOLLOWING:

7 (a) A description of the nature and type of the respondent's
8 developmental disability.

9 (b) Current evaluations of the respondent's mental, physi-
10 cal, social, and educational condition, adaptive behavior, and
11 social skills.

12 (c) An opinion as to whether guardianship is needed, the
13 type and scope of the guardianship needed, and A specific state-
14 ment of the reasons for the guardianship.

15 (d) A recommendation as to the most appropriate rehabilita-
16 tion plan and living arrangement for the ~~person~~ INDIVIDUAL and
17 the reasons for the recommendation.

18 (e) The signatures of all ~~persons~~ INDIVIDUALS who per-
19 formed the evaluations upon which the report is based. One of
20 the ~~persons~~ INDIVIDUALS shall be a physician or psychologist
21 who, by training or experience, is competent in evaluating
22 ~~persons~~ INDIVIDUALS with developmental disabilities.

23 (f) A listing of all psychotropic medications, plus all
24 other medications the respondent is receiving on a continuous
25 basis, the dosage of the medications, and a ~~prescription~~
26 DESCRIPTION of the impact upon the respondent's mental, physical

1 and educational conditions, adaptive behavior, and social
2 skills.

3 (2) Psychological tests upon which an evaluation of the
4 respondent's mental condition have been based may be performed up
5 to 1 year before the filing of the petition.

6 (3) If a report does not accompany the petition, the court
7 shall order appropriate evaluations to be performed by qualified
8 ~~persons~~ INDIVIDUALS who may be employees of the state, the
9 county, or the court. The court may order payment for evalu-
10 ations of respondents by a ~~state or~~ public agency ~~which~~ THAT
11 treats or serves the developmentally disabled. State compensa-
12 tion for evaluations paid for by public mental health agencies
13 shall be determined ~~pursuant to~~ UNDER section 244, ~~of this~~
14 ~~act, being section 330.+244 of the Michigan Compiled Laws,~~ sec-
15 tions 302 ~~through~~ TO 310, ~~of this act, being sections 330.+302~~
16 ~~through 330.+310 of the Michigan Compiled Laws,~~ and sections 800
17 ~~through~~ TO 844. ~~of this act, being sections 330.+800 through~~
18 ~~330.+844 of the Michigan Compiled Laws.~~ Compensation for an
19 evaluation shall be in an amount ~~which~~ THAT is reasonable and
20 based upon time and expenses. The report shall be prepared and
21 filed with the court not less than 10 days before the hearing.

22 (4) A report prepared ~~pursuant to~~ UNDER this section shall
23 not be made part of the public record of the proceedings but
24 shall be available to the court or an appellate court to which
25 the proceedings ~~are subject to review~~ MAY BE APPEALED, to the
26 respondent, the petitioner, ~~and~~ their attorneys, and to other
27 ~~persons~~ INDIVIDUALS the court directs.

1 Sec. 620. (1) A court order establishing partial
2 guardianship shall contain findings of fact, shall define the
3 powers and duties of the partial guardian so as to permit the
4 ~~developmentally disabled person~~ INDIVIDUAL WITH A DEVELOPMENTAL
5 DISABILITY to care for himself or herself and ~~the respondent's~~
6 HIS OR HER property commensurate with his or her ability to do
7 so, and shall specify all legal disabilities to which the
8 ~~developmentally disabled person~~ INDIVIDUAL is subject.

9 (2) ~~A developmentally disabled person~~ AN INDIVIDUAL WITH A
10 DEVELOPMENTAL DISABILITY for whom a partial guardian has been
11 appointed retains all legal and civil rights except those ~~which~~
12 THAT have by court order been designated as legal disabilities or
13 ~~which~~ THAT have been specifically granted to the partial guard-
14 ian by the court.

15 (3) The appointment of a partial guardian under this chapter
16 ~~shall~~ DOES not constitute a finding of legal incompetence or
17 incapacity except in those areas specified by the court.

18 Sec. 623. (1) A guardian, whether plenary or partial,
19 appointed under this chapter shall not have the power, unless
20 specified by court order, to place ~~a developmentally disabled~~
21 ~~person~~ AN INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY in a
22 facility.

23 (2) Before authorizing the placement of a respondent in a
24 facility, the court shall inquire into and determine the appro-
25 priateness of the placement.

26 (3) Before authorizing a guardian to make application to
27 place ~~a developmentally disabled person~~ AN INDIVIDUAL WITH A

1 DEVELOPMENTAL DISABILITY in a facility, the court shall
 2 determine, in conjunction with the appropriate community mental
 3 health ~~board~~ SERVICES PROGRAM, whether the placement offers
 4 appropriate treatment and residential programs to meet the needs
 5 of the respondent and whether there ~~exists~~ IS a less restric-
 6 tive ~~available~~ treatment and residential program AVAILABLE. In
 7 ordering a placement, the court shall give preference to ~~a~~ AN
 8 AVAILABLE less restrictive ~~available~~ treatment and residential
 9 program provided that it is adequate and appropriate to meet the
 10 respondent's needs. The court or counsel may request reports
 11 from public agencies on the suitability of a particular placement
 12 for a respondent.

13 Sec. 628. (1) The court may appoint as guardian of ~~a~~
 14 ~~developmentally disabled person~~ AN INDIVIDUAL WITH A DEVELOPMEN-
 15 TAL DISABILITY any suitable ~~person~~ INDIVIDUAL or agency, public
 16 or private, including a private association capable of conducting
 17 an active guardianship program for ~~a developmentally disabled~~
 18 ~~person~~ AN INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY. The court
 19 shall not ordinarily or customarily appoint the department of
 20 mental health as guardian or any other agency, public or private,
 21 that is directly providing services to the ~~developmentally dis-~~
 22 ~~abled person~~ INDIVIDUAL.

23 (2) Before the appointment, the court shall make a reason-
 24 able effort to question the ~~developmentally disabled person~~
 25 INDIVIDUAL concerning his or her preference regarding the person
 26 to be appointed guardian, and any preference indicated shall be
 27 given due consideration.

1 Sec. 637. (1) A guardian for ~~a developmentally disabled~~
2 ~~person~~ AN INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY or the
3 ~~person's~~ INDIVIDUAL'S estate who was appointed before the
4 effective date of this act ~~, pursuant to~~ UNDER FORMER chapter 3
5 of Act No. 288 of the Public Acts of 1939 ~~, as amended,~~ or a
6 guardian appointed ~~pursuant to~~ UNDER this chapter may be dis-
7 charged, or have his or her duties modified, when the
8 individual's capacity to perform the tasks necessary for the care
9 of his or her person or the management of his or her estate have
10 changed so as to warrant modification or discharge. The
11 ~~developmentally disabled person~~ INDIVIDUAL WITH A DEVELOPMENTAL
12 DISABILITY, the ~~person's~~ INDIVIDUAL'S guardian, or any inter-
13 ested person on his or her behalf may petition the court for a
14 discharge or modification order under this section.

15 (2) A request under subsection (1), if made by the
16 ~~developmentally disabled person~~ INDIVIDUAL WITH A DEVELOPMENTAL
17 DISABILITY, may be communicated to the court by any means,
18 including oral communication or informal letter. Upon receipt of
19 the communication the court shall appoint a suitable person who
20 may, but need not be, an employee of the state, county, or court,
21 to prepare and file with the court a petition reflecting the
22 communication.

23 (3) The court, upon receipt of a petition filed ~~pursuant~~
24 ~~to~~ UNDER this section, shall conduct a hearing. At the hearing,
25 the individual shall have all of the rights indicated in sections
26 615 and 617.

1 (4) Upon conclusion of the hearing, the court shall enter a
2 written order setting forth the factual basis for its findings
3 and may do any of the following:

4 (a) Dismiss the petition.

5 (b) Remove the guardian and dissolve the guardianship
6 order.

7 (c) Remove the guardian and appoint a successor.

8 (d) Modify the original guardianship order.

9 (e) Make any other order ~~which~~ THAT the court considers
10 appropriate and in the interests of the ~~developmentally disabled~~
11 ~~person~~ INDIVIDUAL WITH A DEVELOPMENTAL DISABILITY.

12 Sec. 642. (1) The surviving parent of a ~~developmentally~~
13 ~~disabled~~ minor WITH A DEVELOPMENTAL DISABILITY for whom a guard-
14 ian has not been appointed may by will appoint a testamentary
15 guardian. The testamentary appointment becomes effective ~~—~~
16 without, but subject to, probate ~~—~~ immediately upon the death
17 of the parent. A testamentary guardian ~~shall possess~~ POSSESSES
18 the powers of a parent, and shall serve subject to the court's
19 power to reduce the scope of guardianship authority or to dismiss
20 a guardian. The appointment shall terminate when the minor
21 attains 18 years of age, or the guardian is dismissed, whichever
22 occurs first. Upon assuming office, the testamentary guardian
23 shall notify the court in which the decedent's will is to be
24 probated.

25 (2) A parent who has been appointed guardian of his or her
26 ~~developmentally disabled~~ minor or adult child WITH A
27 DEVELOPMENTAL DISABILITY may by will, except in the event that a

1 standby guardian has been designated, appoint a testamentary
2 guardian. The testamentary appointment becomes effective ~~—~~
3 without, but subject to, probate ~~—~~ immediately upon the death
4 of the initially appointed guardian. The testamentary guardian
5 possesses the powers of the initially appointed guardian, shall
6 be entitled to receive upon request a copy of a court order cre-
7 ating or modifying the initial guardianship, and shall serve
8 subject to the power of the court ~~which~~ THAT appointed the ini-
9 tial guardian to reduce the scope of guardianship authority or to
10 dismiss a guardian. In the event that the court probating
11 decedent's will does not have jurisdiction over the testamentary
12 guardian except ~~that~~ if the court finds the will to be invalid,
13 the appointment shall be nullified. Upon assuming office, the
14 testamentary guardian shall notify the probate court ~~which~~ THAT
15 appointed the initial guardian and the probate court in which the
16 will is subject to probate.

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

19 ~~(a) "Department" means the department of mental health.~~

20 ~~(b) "County community mental health program" means a program~~
21 ~~operated by or under contract with a county community mental~~
22 ~~health board.~~

23 ~~(c) "Facility" means a residential facility which provides~~
24 ~~mental health services, and which is licensed by the state or is~~
25 ~~operated by or under contract with a public agency.~~

26 ~~(d) "Resident" means a person who resides in a facility.~~

1 ~~(e) "Recipient" means a person who receives mental health~~
2 ~~services from a facility, or a person who receives mental health~~
3 ~~services from an entity other than a facility which is operated~~
4 ~~by or under contract with the department or a county community~~
5 ~~mental health program.~~

6 ~~(f) "Governing body" means the director of the department~~
7 ~~for facilities and other entities operated by the department; the~~
8 ~~county director for facilities and other entities operated by a~~
9 ~~county community mental health program; or the agency, organiza-~~
10 ~~tion, or person having the primary legal authority over other~~
11 ~~facilities.~~

12 ~~(g) "Consent" means an agreement in writing executed by the~~
13 ~~recipient, his guardian if empowered to execute a consent, or his~~
14 ~~parent if he is a minor.~~

15 (A) "CRIMINAL ABUSE" MEANS 1 OR MORE OF THE FOLLOWING:

16 (i) AN ASSAULT THAT IS A VIOLATION OR AN ATTEMPT OR CONSPIR-
17 ACY TO COMMIT A VIOLATION OF SECTIONS 81 TO 90 OF THE MICHIGAN
18 PENAL CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SEC-
19 TIONS 750.81 TO 750.90 OF THE MICHIGAN COMPILED LAWS. CRIMINAL
20 ABUSE DOES NOT INCLUDE AN ASSAULT OR AN ASSAULT AND BATTERY THAT
21 IS A VIOLATION OF SECTION 81 OF ACT NO. 328 OF THE PUBLIC ACTS OF
22 1939, BEING SECTION 750.81 OF THE MICHIGAN COMPILED LAWS, AND
23 THAT IS COMMITTED BY A RECIPIENT AGAINST ANOTHER RECIPIENT.

24 (ii) A CRIMINAL HOMICIDE THAT IS A VIOLATION OR AN ATTEMPT
25 OR CONSPIRACY TO COMMIT A VIOLATION OF SECTION 316, 317, OR 321
26 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTIONS
27 750.316, 750.317, AND 750.321 OF THE MICHIGAN COMPILED LAWS.

1 (iii) CRIMINAL SEXUAL CONDUCT THAT IS A VIOLATION OR AN
2 ATTEMPT OR CONSPIRACY TO COMMIT A VIOLATION OF SECTIONS 520B TO
3 520E OR 520G OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
4 SECTIONS 750.520B TO 750.520E AND 750.520G OF THE MICHIGAN
5 COMPILED LAWS.

6 (B) "HEALTH CARE CORPORATION" MEANS A NONPROFIT HEALTH CARE
7 CORPORATION OPERATING UNDER THE NONPROFIT HEALTH CARE CORPORATION
8 REFORM ACT, ACT NO. 350 OF THE PUBLIC ACTS OF 1980, BEING SEC-
9 TIONS 550.1101 TO 550.1704 OF THE MICHIGAN COMPILED LAWS.

10 (C) "HEALTH CARE INSURER" MEANS AN INSURER AUTHORIZED TO
11 PROVIDE HEALTH INSURANCE IN THIS STATE OR A LEGAL ENTITY THAT IS
12 SELF-INSURED AND PROVIDES HEALTH CARE BENEFITS TO ITS EMPLOYEES.

13 (D) "HEALTH MAINTENANCE ORGANIZATION" MEANS AN ORGANIZATION
14 LICENSED UNDER PART 210 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF
15 THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.21001 TO 333.21098 OF
16 THE MICHIGAN COMPILED LAWS.

17 (E) "MONEY" MEANS ANY LEGAL TENDER, NOTE, DRAFT, CERTIFICATE
18 OF DEPOSIT, STOCK, BOND, CHECK, OR CREDIT CARD.

19 (F) "NONPROFIT DENTAL CARE CORPORATION" MEANS A DENTAL CARE
20 CORPORATION INCORPORATED UNDER ACT NO. 125 OF THE PUBLIC ACTS OF
21 1963, BEING SECTIONS 550.351 TO 550.373 OF THE MICHIGAN COMPILED
22 LAWS.

23 (G) "PRIVILEGED COMMUNICATION" MEANS A COMMUNICATION MADE TO
24 A PSYCHIATRIST OR PSYCHOLOGIST IN CONNECTION WITH THE EXAMINA-
25 TION, DIAGNOSIS, OR TREATMENT OF A PATIENT, OR TO ANOTHER PERSON
26 WHILE THE OTHER PERSON IS PARTICIPATING IN THE EXAMINATION,

1 DIAGNOSIS, OR TREATMENT OR A COMMUNICATION MADE PRIVILEGED UNDER
2 OTHER APPLICABLE STATE OR FEDERAL LAW.

3 (H) "PSYCHOSURGERY" MEANS A SURGICAL PROCEDURE TO ALTER OR
4 INTERVENE IN A SERIOUS MENTAL ILLNESS OR SERIOUS EMOTIONAL
5 DISTURBANCE.

6 (I) "SECLUSION" MEANS THE TEMPORARY PLACEMENT OF A RECIPIENT
7 IN A ROOM, ALONE, WHERE EGRESS IS PREVENTED BY ANY MEANS.

8 (J) "SUPPORT PLAN" MEANS A WRITTEN PLAN THAT SPECIFIES THE
9 PERSONAL SUPPORT SERVICES OR ANY OTHER SUPPORTS THAT ARE TO BE
10 PROVIDED OR ARRANGED FOR A RECIPIENT.

11 (K) "TREATMENT PLAN" MEANS A WRITTEN PLAN THAT SPECIFIES THE
12 GOAL-ORIENTED TREATMENT OR TRAINING SERVICES, INCLUDING REHABILI-
13 TATION OR HABILITATION SERVICES, THAT ARE TO BE PROVIDED TO A
14 RECIPIENT.

15 Sec. 702. (1) The receipt of mental health services, a
16 determination that ~~a person~~ AN INDIVIDUAL meets the criteria of
17 a person requiring treatment or for judicial admission, or any
18 form of admission to a facility including by judicial order ~~—~~
19 ~~(a) Shall~~ SHALL not ~~operate~~ BE USED to deprive ~~any person~~ AN
20 INDIVIDUAL of his OR HER rights, benefits, or privileges. ~~(b)~~
21 ~~Shall not cause the person to be deemed legally incompetent.~~

22 (2) ~~(c) Does~~ THE RECEIPT OF MENTAL HEALTH SERVICES, A
23 DETERMINATION THAT AN INDIVIDUAL MEETS THE CRITERIA OF A PERSON
24 REQUIRING TREATMENT OR FOR JUDICIAL ADMISSION, OR ANY FORM OF
25 ADMISSION TO A FACILITY INCLUDING BY JUDICIAL ORDER DOES not con-
26 stitute a determination or adjudication that the ~~person is~~
27 ~~insane, feeble-minded, imbecilic, or idiotic as those terms are~~

1 INDIVIDUAL IS INCOMPETENT AS THAT TERM IS used in other statutes.
2 ~~, including but not limited to statutes governing marriage and~~
3 ~~statutes governing professional, occupational, and vehicle~~
4 ~~operator's licenses.~~

5 Sec. 704. (1) In addition to the rights, benefits, and
6 privileges guaranteed by other provisions of law, the STATE con-
7 stitution of 1963, and the constitution of the United States, a
8 recipient of mental health services shall have the rights guaran-
9 teed by this chapter UNLESS OTHERWISE RESTRICTED BY LAW.

10 (2) The rights enumerated in this chapter shall not be con-
11 strued to replace or limit any other rights, benefits, or privi-
12 leges of a recipient of services including the right to treatment
13 by spiritual means if requested by the ~~patient, or by his next~~
14 ~~of kin~~ RECIPIENT, PARENT, or guardian.

15 (3) The provisions of this chapter shall be construed to
16 protect and promote the basic human dignity to which a recipient
17 of services is entitled.

18 Sec. 706. ~~Recipients~~ EXCEPT AS PROVIDED IN SECTION 707,
19 APPLICANTS FOR AND RECIPIENTS of mental health services and in
20 the case of minors, the APPLICANT'S OR recipient's parent or
21 guardian, shall be notified by the providers of those services of
22 the rights guaranteed by this chapter. Notice shall be accom-
23 plished by providing an accurate summary of this chapter ~~when~~
24 TO the APPLICANT OR recipient ~~is first accepted for service~~ AT
25 THE TIME SERVICES ARE FIRST REQUESTED AND BY HAVING A COMPLETE
26 COPY OF THIS CHAPTER READILY AVAILABLE FOR REVIEW BY APPLICANTS
27 AND RECIPIENTS.

1 Sec. 707. (1) A minor 14 years of age or older may request
2 and receive mental health services and a mental ~~health~~ HEALTH
3 professional may provide mental health services, on an outpatient
4 basis, excluding pregnancy termination referral services and the
5 use of ~~chemotherapy~~ PSYCHOTROPIC DRUGS, without the consent or
6 knowledge of the minor's parent, guardian, or person in loco
7 parentis. Except as otherwise provided in this section, the
8 minor's parent, guardian, or person in loco parentis shall not be
9 informed of the services without the consent of the minor unless
10 the mental health professional treating the minor determines that
11 there is a compelling need for disclosure based on a substantial
12 probability of harm to the minor or to ~~other persons~~ ANOTHER
13 INDIVIDUAL, and if the minor is notified of the mental health
14 professional's intent to inform the minor's parent, guardian, or
15 person in loco parentis.

16 (2) Services provided to a minor ~~pursuant to~~ UNDER this
17 section shall, to the extent possible, promote the minor's rela-
18 tionship to the parent, guardian, or person in loco parentis, and
19 shall not undermine the values that the parent, guardian, or
20 person in loco parentis has sought to instill in the minor.

21 (3) Services provided to a minor ~~pursuant to~~ UNDER this
22 section shall be limited to not more than 12 sessions or 4 months
23 per request for services. After the twelfth session or fourth
24 month of services the mental health professional shall terminate
25 the services or, with the consent of the minor, notify the
26 parent, guardian, or person in loco parentis to obtain consent to
27 provide further outpatient services.

1 (4) The minor's parent, guardian, or person in loco parentis
 2 ~~shall~~ IS not ~~be~~ liable for the costs of services ~~which~~ THAT
 3 are received by a minor under subsection (1).

4 (5) This section ~~shall~~ DOES not relieve a mental health
 5 professional from his or her duty to report suspected child abuse
 6 or neglect ~~pursuant to~~ UNDER section 3 of the child protection
 7 law, Act No. 238 of the Public Acts of 1975, being
 8 section 722.623 of the Michigan Compiled Laws.

9 ~~(6) As used in this section:~~

10 ~~(a) "Guardian" means a person with authority for the care~~
 11 ~~and custody of a minor pursuant to an order of the probate court~~
 12 ~~or the circuit court.~~

13 ~~(b) "Mental health professional" means a mental health pro-~~
 14 ~~fessional as defined in R 330.1001 of the Michigan administrative~~
 15 ~~code.~~

16 ~~(c) "Person in loco parentis" means a person in loco paren-~~
 17 ~~tis as defined in section 490c.~~

18 Sec. 708. A ~~resident~~ RECIPIENT is entitled to mental
 19 health services suited to his OR HER condition and to a safe,
 20 sanitary, and humane ~~living~~ TREATMENT environment. RECIPIENTS
 21 HAVE THE RIGHT TO BASIC HUMAN DIGNITY AND ARE ENTITLED TO BE
 22 TREATED WITH RESPECT AT ALL TIMES. MENTAL HEALTH SERVICES SHALL
 23 BE OFFERED IN THE LEAST RESTRICTIVE SETTING THAT IS APPROPRIATE
 24 AND AVAILABLE.

25 Sec. 710. ~~Prior to or soon~~ WITHIN 24 HOURS after
 26 admission, each resident OF A HOSPITAL OR CENTER shall receive a

1 comprehensive physical and mental examination. Each resident
2 shall be periodically reexamined not less often than annually.

3 Sec. 712. (1) ~~An individualized written plan of services~~
4 ~~shall be developed for each resident.~~ THE RESPONSIBLE MENTAL
5 HEALTH AGENCY FOR EACH RECIPIENT SHALL ENSURE THE DEVELOPMENT OF
6 A WRITTEN INDIVIDUAL PLAN OF SERVICES IN PARTNERSHIP WITH THE
7 RECIPIENT. THE INDIVIDUAL PLAN OF SERVICES SHALL CONSIST OF A
8 TREATMENT PLAN, A SUPPORT PLAN, OR BOTH. The plan shall be kept
9 current and shall be modified when indicated. The ~~person~~
10 INDIVIDUAL in charge of implementing the plan of services shall
11 be designated in the plan.

12 (2) IF A RECIPIENT IS NOT SATISFIED WITH HIS OR HER INDIVID-
13 UAL PLAN OF SERVICES, THE RECIPIENT MAY MAKE A REQUEST FOR REVIEW
14 TO THE DESIGNATED INDIVIDUAL IN CHARGE OF IMPLEMENTING THE PLAN.
15 THE REVIEW SHALL BE TIMELY AND CARRIED OUT IN A MANNER APPROVED
16 BY THE APPROPRIATE GOVERNING BODY.

17 (3) THE DEVELOPMENT AND REVIEW OF THE PLAN OF SERVICES SHALL
18 FOCUS ON THE NEEDS AND PREFERENCES OF THE RECIPIENT AND SHALL
19 INVOLVE FAMILY MEMBERS, FRIENDS, ADVOCATES, AND PROFESSIONALS AS
20 THE RECIPIENT CHOOSES OR REQUIRES. AN INDIVIDUAL CHOSEN OR
21 REQUIRED BY THE RECIPIENT MAY BE EXCLUDED FROM PARTICIPATION IN
22 THE PLANNING PROCESS ONLY IF INCLUSION OF THAT INDIVIDUAL WOULD
23 CONSTITUTE A SUBSTANTIAL RISK OF PHYSICAL OR EMOTIONAL HARM TO
24 THE RECIPIENT OR DISRUPTION OF THE PLANNING PROCESS.
25 JUSTIFICATION FOR AN INDIVIDUAL'S EXCLUSION SHALL BE DOCUMENTED
26 IN THE CASE RECORD.

1 Sec. 714. A ~~resident~~ RECIPIENT shall be informed ORALLY
2 AND IN WRITING of his OR HER clinical status and progress at
3 reasonable intervals ESTABLISHED IN THE INDIVIDUAL PLAN OF
4 SERVICES in a manner appropriate to his OR HER clinical
5 condition.

6 Sec. 715. If a resident is able to secure the services of a
7 private physician, he OR SHE shall be allowed to see his OR HER
8 physician at any reasonable time.

9 Sec. 716. (1) Except as provided in subsections (2) and
10 (3), a recipient of mental health services shall not have surgery
11 performed upon him ~~, nor shall he be the subject of~~
12 ~~electro convulsive therapy or of another procedure intended to~~
13 ~~produce convulsions or coma,~~ OR HER unless consent is obtained
14 from 1 OF THE FOLLOWING:

15 (a) The recipient if he OR SHE is 18 years of age or over
16 and ~~competent to consent~~ DOES NOT HAVE A GUARDIAN FOR MEDICAL
17 PURPOSES.

18 (b) The guardian of the recipient if the guardian is legally
19 empowered to execute ~~such~~ a consent TO SURGERY.

20 (c) The parent of the recipient WHO HAS LEGAL AND PHYSICAL
21 CUSTODY OF THE RECIPIENT, if the recipient is less than 18 years
22 of age.

23 (d) THE REPRESENTATIVE AUTHORIZED TO CONSENT UNDER A DURABLE
24 POWER OF ATTORNEY OR OTHER ADVANCE DIRECTIVE.

25 (2) If the life of a recipient is threatened and there is
26 not time to obtain consent, ~~the procedures listed in subsection~~
27 ~~(1)~~ SURGERY may be performed without consent after the medical

1 necessity for the procedure has been documented and the
2 documentation has been entered into the record of the recipient.

3 (3) If ~~one of the procedures listed in subsection (1)~~
4 SURGERY is ~~deemed~~ CONSIDERED advisable for a recipient, and if
5 no one eligible under subsection (1) to give consent can be found
6 after diligent effort, a probate court may, upon petition and
7 after hearing, consent to performance of the ~~procedure~~ SURGERY
8 in lieu of the ~~person~~ INDIVIDUAL eligible to give consent.

9 SEC. 717. (1) A RECIPIENT SHALL NOT BE THE SUBJECT OF PSY-
10 CHOSURGERY, ELECTROCONVULSIVE THERAPY, OR A PROCEDURE INTENDED TO
11 PRODUCE CONVULSIONS OR COMA UNLESS CONSENT IS OBTAINED FROM THE
12 FOLLOWING:

13 (A) THE RECIPIENT, IF HE OR SHE IS 18 YEARS OF AGE OR OLDER
14 AND DOES NOT HAVE A GUARDIAN FOR MEDICAL PURPOSES.

15 (B) THE RECIPIENT'S PARENT WHO HAS LEGAL AND PHYSICAL CUS-
16 TODY OF THE RECIPIENT, IF THE RECIPIENT IS LESS THAN 18 YEARS OF
17 AGE.

18 (C) THE RECIPIENT'S GUARDIAN, IF THE GUARDIAN HAS POWER TO
19 EXECUTE A CONSENT TO PROCEDURES DESCRIBED IN THIS SECTION.

20 (D) THE RECIPIENT'S DESIGNATED REPRESENTATIVE, IF A DURABLE
21 POWER OF ATTORNEY OR OTHER ADVANCE DIRECTIVE GRANTS THE REPRESEN-
22 TATIVE AUTHORITY TO CONSENT TO PROCEDURES DESCRIBED IN THIS
23 SECTION.

24 (2) IF A PARENT OR GUARDIAN OF A MINOR CONSENTS TO A PROCE-
25 DURE DESCRIBED IN THIS SECTION, THE PROCEDURE SHALL NOT BE INITI-
26 ATED UNTIL 2 CHILD PSYCHIATRISTS, 1 OF WHOM MAY BE THE TREATING
27 PSYCHIATRIST, HAVE EXAMINED THE MINOR AND DOCUMENTED IN THE

1 MINOR'S MEDICAL RECORD THEIR CONCURRENCE WITH THE DECISION TO
2 ADMINISTER THE PROCEDURE.

3 (3) A MINOR OR AN ADVOCATE DESIGNATED BY THE MINOR MAY
4 OBJECT TO THE ADMINISTRATION OF A PROCEDURE DESCRIBED IN THIS
5 SECTION. THE OBJECTION SHALL BE MADE IN WRITING TO THE PROBATE
6 COURT. THE PROCEDURE SHALL NOT BE INITIATED BEFORE A COURT HEAR-
7 ING ON THE MINOR'S OR ADVOCATE'S OBJECTION.

8 (4) AT LEAST 72 HOURS, EXCLUDING SUNDAYS OR HOLIDAYS, BEFORE
9 THE INITIATION OF A PROCEDURE DESCRIBED IN THIS SECTION, A MINOR
10 SHALL BE INFORMED THAT HE OR SHE HAS A RIGHT TO OBJECT TO THE
11 PROCEDURE.

12 (5) IF A PROCEDURE DESCRIBED IN THIS SECTION IS CONSIDERED
13 ADVISABLE FOR A RECIPIENT AND AN INDIVIDUAL ELIGIBLE TO GIVE CON-
14 SENT FOR THE PROCEDURE IS NOT LOCATED AFTER DILIGENT EFFORT, A
15 PROBATE COURT MAY, UPON PETITION AND AFTER A HEARING, CONSENT TO
16 ADMINISTRATION OF THE PROCEDURE IN LIEU OF THE INDIVIDUAL ELIGI-
17 BLE TO GIVE CONSENT.

18 Sec. 718. ~~(1) Chemotherapy shall not be administered to an~~
19 ~~individual who has been hospitalized by medical certification or~~
20 ~~by petition pursuant to chapter 4 or 5 until after the prelimi-~~
21 ~~nary court hearing has been held unless the individual consents~~
22 ~~to such chemotherapy or unless the administration of such chemo-~~
23 ~~therapy is necessary to prevent physical injury to the individual~~
24 ~~or others. (2) Chemotherapy~~ PSYCHOTROPIC DRUGS shall not be
25 administered to an individual who has been hospitalized by medi-
26 cal certification or by petition ~~pursuant to~~ UNDER chapter 4 or
27 5 on the day preceding and on the day of his ~~full~~ OR HER court

1 hearing unless the individual consents ~~to such chemotherapy~~ or
 2 unless the administration of ~~such chemotherapy~~ THE PSYCHOTROPIC
 3 DRUGS is necessary to prevent physical injury to the individual
 4 or others.

5 Sec. 722. (1) A recipient of mental health services shall
 6 not be ~~physically, sexually, or otherwise abused~~ SUBJECTED TO
 7 ABUSE OR NEGLECT.

8 ~~(2) The governing body of each facility shall adopt written~~
 9 ~~policies and procedures designed to protect recipients of mental~~
 10 ~~health services from abuse and to prevent the repetition of acts~~
 11 ~~of abuse. The policies and procedures shall more particularly~~
 12 ~~define abuse, shall provide a mechanism for discovering instances~~
 13 ~~of abuse and for reviewing all charges of abuse, shall ensure~~
 14 ~~that firm and appropriate disciplinary action is taken against~~
 15 ~~those who have engaged in abuse, and shall contain those addi-~~
 16 ~~tional provisions deemed appropriate by the governing body.~~

17 (2) ~~(3) A facility shall cooperate in the prosecution of~~
 18 ~~appropriate criminal charges~~ THE DEPARTMENT, EACH COMMUNITY
 19 MENTAL HEALTH SERVICES PROGRAM, AND EACH LICENSED HOSPITAL SHALL
 20 ENSURE THAT APPROPRIATE DISCIPLINARY ACTION IS TAKEN against
 21 those who have engaged in ~~unlawful~~ abuse OR NEGLECT.

22 (3) ~~(4) Any~~ A recipient of mental health services
 23 ~~physically, sexually, or otherwise abused shall have~~ WHO IS
 24 ABUSED OR NEGLECTED HAS a right to pursue injunctive and other
 25 appropriate civil relief.

26 Sec. 723. (1) A mental health professional, a person
 27 employed by or under contract to the department, a LICENSED

1 facility, or a community mental health ~~board~~ SERVICES PROGRAM,
2 or a person employed by ~~an entity~~ A PROVIDER under contract to
3 the department, a LICENSED facility, or a community mental health
4 ~~board~~ SERVICES PROGRAM who has reasonable cause to suspect the
5 CRIMINAL abuse of a recipient ~~or resident~~ immediately shall
6 make or cause to be made, by telephone or otherwise, an oral
7 report of the suspected CRIMINAL abuse to the law enforcement
8 agency for the county or city in which the CRIMINAL abuse is sus-
9 pected to have occurred or to the state police.

10 (2) Within 72 hours after making the oral report, the
11 reporting ~~person~~ INDIVIDUAL shall file a written report ~~—The~~
12 ~~written report shall be filed~~ with the law enforcement agency to
13 which the oral report was made, and with the chief administrator
14 of the facility or agency responsible for the recipient. ~~or~~
15 ~~resident.~~

16 ~~(2) A person who makes a report pursuant to subsection (1)~~
17 ~~shall not be dismissed or otherwise penalized by an employer for~~
18 ~~making the report.~~

19 (3) The written report required by subsection ~~(1)~~ (2)
20 shall contain the name of the recipient ~~or resident~~ and a
21 description of the CRIMINAL abuse and other information available
22 to the reporting ~~person which~~ INDIVIDUAL THAT might establish
23 the cause of the CRIMINAL abuse and the manner in which ~~the~~
24 ~~abuse~~ IT occurred. ~~and shall be made on a form prescribed by~~
25 ~~the department.~~ The report shall become a part of the
26 recipient's ~~or resident's~~ clinical record. ~~and shall be~~
27 ~~confidential.~~ Before the report becomes part of the recipient's

1 ~~or resident's~~ clinical record, the names of the reporting
 2 ~~person~~ INDIVIDUAL and the ~~person~~ INDIVIDUAL accused of com-
 3 mitting the CRIMINAL abuse, if contained in the report, shall be
 4 deleted.

5 (4) The identity of ~~a person~~ AN INDIVIDUAL who makes a
 6 report ~~pursuant to subsection (1) shall be~~ UNDER THIS SECTION
 7 IS confidential and IS NOT subject to disclosure ~~only with~~
 8 WITHOUT the consent of that ~~person~~ INDIVIDUAL or by ~~judicial~~
 9 ~~process~~ ORDER OR SUBPOENA OF A COURT OF RECORD. ~~A person~~ AN
 10 INDIVIDUAL acting in good faith who makes a report ~~shall be~~ OF
 11 CRIMINAL ABUSE AGAINST A RECIPIENT IS immune from civil or crimi-
 12 nal liability ~~which~~ THAT might otherwise be incurred.
 13 ~~thereby. A person making a report shall be presumed to have~~
 14 ~~acted in good faith.~~ The immunity from civil or criminal liabil-
 15 ity granted by this subsection extends only to acts done under
 16 this section and does not extend to a negligent act ~~which~~ THAT
 17 causes personal injury or death.

18 ~~(5) Except as otherwise provided in subdivision (a), as~~
 19 ~~used in this section, "abuse" means 1 or more of the following:~~
 20 ~~(a) An assault, which is a violation of sections 81 to 90 of~~
 21 ~~the Michigan penal code, Act No. 320 of the Public Acts of 1931,~~
 22 ~~being sections 750.81 to 750.90 of the Michigan Compiled Laws,~~
 23 ~~including an attempt or a conspiracy to commit a violation of~~
 24 ~~sections 81 to 90 of the Michigan penal code. Abuse does not~~
 25 ~~include an assault or an assault and battery which is a violation~~
 26 ~~of section 81 of the Michigan penal code and which is committed~~

1 ~~by a recipient or resident against another recipient or~~
2 ~~resident.~~

3 ~~(b) A criminal homicide, which is a violation of section~~
4 ~~316, 317, or 321 of the Michigan penal code, Act No. 320 of the~~
5 ~~Public Acts of 1931, being sections 750.316, 750.317, and 750.321~~
6 ~~of the Michigan Compiled Laws, including an attempt or a conspir-~~
7 ~~acy to commit a violation of section 316, 317, or 321 of the~~
8 ~~Michigan penal code.~~

9 ~~(c) Criminal sexual conduct, which is a violation of sec-~~
10 ~~tions 520b to 520e, or assault with intent to commit criminal~~
11 ~~sexual conduct, which is a violation of section 520g of the~~
12 ~~Michigan penal code, Act No. 320 of the Public Acts of 1931,~~
13 ~~being sections 750.520b to 750.520e and 750.520g of the Michigan~~
14 ~~Compiled Laws, including an attempt or a conspiracy to commit a~~
15 ~~violation of sections 520b and 520e or section 520g of the~~
16 ~~Michigan penal code.~~

17 (5) AN INDIVIDUAL WHO MAKES A REPORT UNDER THIS SECTION IN
18 GOOD FAITH SHALL NOT BE DISMISSED OR OTHERWISE PENALIZED BY AN
19 EMPLOYER OR CONTRACTOR FOR MAKING THE REPORT.

20 (6) This section does not relieve ~~a person~~ AN INDIVIDUAL
21 from the duty to report CRIMINAL abuse under other applicable
22 law.

23 (7) THE DEPARTMENT, COMMUNITY MENTAL HEALTH SERVICES PRO-
24 GRAM, OR LICENSED HOSPITAL SHALL COOPERATE IN THE PROSECUTION OF
25 APPROPRIATE CRIMINAL CHARGES AGAINST THOSE WHO HAVE ENGAGED IN
26 CRIMINAL ABUSE.

1 (8) ~~(7)~~ Except as otherwise provided in subsection ~~(2)~~
 2 (5), this section does not preclude nor hinder the department, a
 3 LICENSED facility, a community mental health ~~board~~ SERVICES
 4 PROGRAM, or ~~an entity~~ A PROVIDER under contract to the depart-
 5 ment, a LICENSED facility, or a community mental health ~~board~~
 6 SERVICES PROGRAM from investigating reported claims of CRIMINAL
 7 abuse OF A RECIPIENT by its employees, and from taking appropri-
 8 ate disciplinary action against its employees based upon that
 9 investigation.

10 (9) ~~(8)~~ This section does not require a person to report
 11 suspected CRIMINAL abuse if ~~the person~~ EITHER OF THE FOLLOWING
 12 APPLIES:

13 (A) THE INDIVIDUAL has knowledge that the incident of sus-
 14 pected CRIMINAL abuse has been reported to the appropriate law
 15 enforcement agency ~~pursuant to~~ AS PROVIDED IN this section. ~~or if the~~

17 (B) THE suspected CRIMINAL abuse occurred more than 1 year
 18 before the date on which it first became known to ~~a person~~ AN
 19 INDIVIDUAL who would otherwise be required to make a report.

20 (10) ~~(9)~~ This section does not require ~~a person~~ AN
 21 INDIVIDUAL required to report suspected CRIMINAL abuse ~~pursuant~~
 22 ~~to~~ UNDER subsection (1) to disclose confidential information ~~as~~
 23 ~~described in section 748~~ or a privileged communication ~~as~~
 24 ~~defined in section 750~~ except under 1 or both of the following
 25 circumstances:

26 (a) If the suspected CRIMINAL abuse is alleged to have been
 27 committed or caused by a mental health professional, ~~a person~~

1 AN INDIVIDUAL employed by or under contract to the department, a
 2 LICENSED facility, or a community mental health ~~board~~ SERVICES
 3 PROGRAM, or ~~a person~~ AN INDIVIDUAL employed by ~~an entity~~ A
 4 PROVIDER under contract to the department, a LICENSED facility,
 5 or a community mental health ~~board~~ SERVICES PROGRAM.

6 (b) If the suspected CRIMINAL abuse is alleged to have been
 7 committed in 1 of the following:

8 (i) A STATE facility OR A LICENSED FACILITY.

9 (ii) A county community mental health SERVICES program
 10 site.

11 (iii) The work site of ~~a person~~ AN INDIVIDUAL employed by
 12 or under contract to THE DEPARTMENT, a LICENSED facility, or A
 13 community mental health ~~board~~ SERVICES PROGRAM or ~~an entity~~ A
 14 PROVIDER under contract to THE DEPARTMENT, a LICENSED facility,
 15 or A community mental health ~~board~~ SERVICES PROGRAM.

16 (iv) ~~Any~~ A place where a recipient ~~or resident~~ is under
 17 the supervision of ~~a person~~ AN INDIVIDUAL employed by or under
 18 contract to THE DEPARTMENT, a LICENSED facility, ~~or~~ A community
 19 mental health ~~board~~ SERVICES PROGRAM, or ~~an entity~~ A PROVIDER
 20 under contract to THE DEPARTMENT, a LICENSED facility, or A com-
 21 munity mental health ~~board~~ SERVICES PROGRAM.

22 ~~(10) As used in this section, "mental health professional"~~
 23 ~~means a person who is trained and experienced in the areas of~~
 24 ~~mental illness or developmental disabilities and who is any 1 of~~
 25 ~~the following:~~

26 ~~(a) A physician who is licensed to practice medicine or~~
 27 ~~osteopathic medicine and surgery in this state under article 15~~

1 ~~of the public health code, Act No. 368 of the Public Acts of~~
2 ~~1978, being sections 333.16101 to 333.18038 of the Michigan~~
3 ~~Compiled Laws.~~

4 ~~(b) A psychologist licensed to practice in this state under~~
5 ~~article 15 of the public health code, Act No. 368 of the Public~~
6 ~~Acts of 1978.~~

7 ~~(c) A nurse licensed to practice in this state under~~
8 ~~article 15 of the public health code, Act No. 368 of the Public~~
9 ~~Acts of 1978.~~

10 ~~(d) A certified social worker, a social worker, or a social~~
11 ~~worker technician registered in this state under article 16 of~~
12 ~~the occupational code, Act No. 299 of the Public Acts of 1980,~~
13 ~~being sections 339.1601 to 339.1610 of the Michigan Compiled~~
14 ~~Laws.~~

15 Sec. 723a. The court with jurisdiction in each case result-
16 ing from a report made ~~pursuant to~~ UNDER section 723 shall
17 appoint a guardian ad litem for the recipient. ~~or resident.~~

18 Sec. 723b. Section 723 ~~shall~~ DOES not prohibit ~~a person~~
19 AN INDIVIDUAL who is not employed by or under contract to THE
20 DEPARTMENT, a LICENSED facility, or A community mental health
21 ~~board~~ SERVICES PROGRAM and who has reasonable cause to suspect
22 the CRIMINAL abuse of a recipient ~~or resident~~ from making a
23 report to the appropriate law enforcement agency or TO the
24 department or county community mental health ~~board~~ SERVICES
25 PROGRAM.

1 Sec. 723c. (1) ~~A person~~ AN INDIVIDUAL who intentionally
2 violates section 723 or who knowingly makes a false report
3 pursuant to section 723 is guilty of a misdemeanor.

4 (2) ~~A person~~ AN INDIVIDUAL who violates section 723 is
5 civilly liable for the damages proximately caused by the
6 violation.

7 Sec. 724. (1) A recipient of mental health services shall
8 not be fingerprinted, ~~or~~ photographed, ~~by the provider of~~
9 ~~those services~~ AUDIOTAPED, OR VIEWED THROUGH A 1-WAY GLASS
10 except in the circumstances and under the conditions set forth in
11 this section. As used in this section, photography includes the
12 use of still, motion picture, and ~~video tape~~ VIDEOTAPE
13 cameras.

14 (2) Fingerprints, ~~or~~ photographs, OR AUDIOTAPES may be
15 taken and used AND 1-WAY GLASS MAY BE USED in order to provide
16 services, including research, to a recipient or in order to
17 determine the name of the recipient only when ~~express~~ PRIOR
18 written consent is obtained from 1 OF THE FOLLOWING:

19 (a) The recipient if 18 years of age or over and competent
20 to consent.

21 (b) The guardian of the recipient if the guardian is legally
22 empowered to execute such a consent.

23 (c) The parent WITH LEGAL AND PHYSICAL CUSTODY of the recip-
24 ient if the recipient is less than 18 years of age.

25 (3) Fingerprints, ~~or~~ photographs, OR AUDIOTAPES taken in
26 order to provide services to a recipient, and ANY copies

1 ~~thereof~~ OF THEM, shall be kept as part of the record of the
2 recipient.

3 (4) Fingerprints, ~~or~~ photographs, OR AUDIOTAPES taken in
4 order to determine the name of a recipient shall be kept as part
5 of the record of the recipient, except that when necessary the
6 fingerprints, ~~or~~ photographs, OR AUDIOTAPES may be delivered to
7 others for assistance in determining the name of the recipient.
8 Fingerprints, ~~or~~ photographs, OR AUDIOTAPES so delivered shall
9 be returned together with copies ~~which~~ THAT were made. ~~A~~
10 ~~person~~ AN INDIVIDUAL receiving fingerprints, ~~or~~ photographs,
11 OR AUDIOTAPES shall be informed of the requirement that return be
12 made. Upon return, the fingerprints, ~~or~~ photographs, OR
13 AUDIOTAPES, together with copies, shall be kept as part of the
14 record of the recipient.

15 (5) Fingerprints, ~~or~~ photographs, OR AUDIOTAPES in the
16 record of a recipient, and ANY copies ~~thereof~~ OF THEM, shall be
17 given to the recipient or destroyed when they are no longer
18 essential in order to achieve 1 of the objectives set forth in
19 subsection (2), or upon discharge of the ~~recipient~~ RESIDENT,
20 whichever occurs first.

21 (6) Photographs may be taken ~~and used for informational or~~
22 FOR purely personal or social purposes. A photograph of a recip-
23 ient shall not be taken or used ~~pursuant to~~ UNDER this subsec-
24 tion if the recipient has indicated his OR HER objection.

25 (7) Photographs OR AUDIOTAPES may be taken AND 1-WAY GLASS
26 MAY BE USED for educational or training purposes only when
27 express written consent is obtained from 1 OF THE FOLLOWING:

1 (a) The recipient if 18 years of age or over and competent
2 to consent.

3 (b) The guardian of the recipient if the guardian is legally
4 empowered to execute such a consent.

5 (c) The parent WITH LEGAL AND PHYSICAL CUSTODY of the recip-
6 ient if the recipient is less than 18 years of age.

7 (8) This section ~~shall~~ DOES not apply to recipients of
8 mental health services referred ~~pursuant to~~ UNDER chapter 10.

9 Sec. 726. (1) A resident is entitled to unimpeded, private,
10 and uncensored communication with others by mail and telephone
11 and to visit with persons of his OR HER choice, except in the
12 circumstances and under the conditions set forth in this
13 section.

14 (2) Each facility shall endeavor to implement the rights
15 guaranteed by subsection (1) by making telephones reasonably
16 accessible, by ensuring that correspondence can be conveniently
17 AND CONFIDENTIALLY received and mailed, and by making space for
18 visits available. Writing materials, telephone usage funds, and
19 postage shall be provided in reasonable amounts to residents who
20 are unable to procure such items.

21 (3) Reasonable times and places for the use of telephones
22 and for visits may be established and, if established, ~~they~~
23 shall be in writing AND POSTED IN EACH LIVING UNIT OF A RESIDEN-
24 TIAL PROGRAM.

25 (4) The right of a resident to communicate by mail or tele-
26 phone may be limited if each limitation is essential in order to
27 prevent the resident from violating a law or to prevent

1 substantial and serious physical or mental harm to the resident,
 2 and if each limitation is approved by the head of the facility or
 3 his OR HER designee.

4 (5) A resident may be prevented by a facility from telephon-
 5 ing an individual who has complained to the facility of previous
 6 telephone harassment by the resident and has requested that the
 7 resident be prevented from calling him OR HER in the future.

8 (6) The right of a resident to visit with ~~persons~~
 9 INDIVIDUALS of his OR HER choice may be limited if each limita-
 10 tion is essential in order to prevent substantial and serious
 11 physical or mental harm to the resident, and if each limitation
 12 is approved by the head of the facility or ~~his designee~~
 13 AUTHORIZED BY THE INDIVIDUAL PLAN OF SERVICES.

14 (7) ~~No~~ A limitation upon the rights guaranteed by subsec-
 15 tion (1) ~~may~~ SHALL NOT apply between a resident and an attorney
 16 or a court, or between a resident and other ~~persons when~~
 17 INDIVIDUALS IF the communication involves matters ~~which~~ THAT
 18 are or may be the subject of legal inquiry.

19 (8) Any limitation adopted under the authority of subsection
 20 (4), (5), or (6), the date it ~~shall expire~~ EXPIRES, and justi-
 21 fication for its adoption shall be promptly noted in the record
 22 of the resident.

23 Sec. 728. (!) A resident is entitled to receive, possess,
 24 and use all personal property, including clothing, except in the
 25 circumstances and under the conditions set forth in this
 26 section.

1 (2) Each facility shall provide a reasonable amount of
2 storage space to each resident for his OR HER clothing and other
3 personal property. THE RESIDENT SHALL BE PERMITTED TO INSPECT
4 PERSONAL PROPERTY AT REASONABLE TIMES.

5 (3) ~~The governing body of a~~ A facility may exclude partic-
6 ular kinds of personal property from the facility. Any exclu-
7 sions shall be officially adopted and shall be in writing AND
8 POSTED IN EACH RESIDENTIAL UNIT.

9 (4) The ~~person~~ INDIVIDUAL in charge of the plan of serv-
10 ices for a resident may limit the rights guaranteed by subsection
11 (1) if each limitation is essential FOR 1 OF THE FOLLOWING
12 PURPOSES:

13 (a) In order to prevent theft, loss, or destruction of the
14 property, UNLESS A WAIVER IS SIGNED BY THE RESIDENT.

15 (b) In order to prevent the resident from physically harming
16 himself, HERSELF, or others.

17 ~~(c) In order to achieve a compelling treatment objective.~~

18 ~~(d) In order to assure the effective functioning of the~~
19 ~~facility.~~

20 (5) ~~Any~~ A limitation adopted under the authority of sub-
21 section (4), the date it ~~shall expire~~ EXPIRES, and justifica-
22 tion for its adoption shall be promptly noted in the record of
23 the resident.

24 (6) ~~Any~~ A limitation adopted under the authority of sub-
25 section (4) shall be removed when the circumstance ~~which~~ THAT
26 justified its adoption ceases to exist.

1 (7) A receipt shall be given to a resident for any of his OR
 2 HER personal property taken into the possession of the facility.
 3 Any personal property in the possession of a facility at the time
 4 the resident to whom the property belongs is released from the
 5 facility shall be returned to the resident.

6 Sec. 730. ~~For purposes of this section, "money"~~
 7 ~~includes any legal tender, note, draft, certificate of deposit,~~
 8 ~~stock, bond, check, or credit card.~~

9 (1) ~~(2)~~ A ~~department~~ STATE facility may require that all
 10 money ~~which~~ THAT is on ~~a~~ THE person of a resident, ~~which~~
 11 THAT comes to a resident, or ~~which~~ THAT the facility receives
 12 ~~in place~~ ON BEHALF of the resident under a benefit arrangement
 13 or otherwise, be turned over to the facility for safekeeping.
 14 The money shall be accounted for in the name of the resident and
 15 recorded periodically in the records of the resident. Upon
 16 request, money accounted for in the name of a resident shall be
 17 turned over to a legal guardian of the resident if the guardian
 18 has such authority.

19 (2) ~~(3)~~ A resident of a ~~department~~ STATE facility is
 20 entitled to easy access to the money in his OR HER account and to
 21 spend or otherwise use the money as he OR SHE chooses, except as
 22 provided in subsection ~~(4)~~ (3). Policies and procedures shall
 23 be established in writing for each STATE facility ~~which create~~
 24 ~~procedures~~ giving residents easy access to the money in their
 25 ~~account~~ ACCOUNTS and ~~which enable the money to be spent or~~
 26 ~~otherwise used as the resident chooses~~ ENABLING RESIDENTS TO
 27 SPEND OR OTHERWISE USE THEIR MONEY AS THEY CHOOSE.

1 (3) ~~(4)~~ A ~~department~~ STATE facility may deny a resident
 2 the access to and ability to spend or otherwise use the money in
 3 his OR HER account only ~~when~~ IF a determination has been made
 4 that the denial is essential in order to prevent the resident
 5 from unreasonably and significantly dissipating his OR HER
 6 assets. In each STATE facility there shall be ~~one person~~ 1
 7 INDIVIDUAL designated in writing to make such determinations.
 8 The policies and procedures governing such determinations,
 9 including the evidence necessary to support a denial of the
 10 resident's rights, shall be set forth in writing by the depart-
 11 ment AND POSTED IN EACH RESIDENTIAL UNIT. ~~When~~ IF denial is
 12 made, the resident shall continue to be allowed to spend or oth-
 13 erwise use the money in ways ~~which would~~ THAT WILL not consti-
 14 tute significant and unreasonable dissipation of the assets.

15 (4) ~~(5)~~ Money accounted for in the name of a resident of a
 16 ~~department~~ STATE facility may be deposited with a financial
 17 institution. Any earnings attributable to money in an account of
 18 a resident shall be credited to that account.

19 (5) ~~(6)~~ All money, including any earnings, in an account
 20 of a resident ~~of a department facility~~ shall be delivered to
 21 the resident upon his OR HER release from the facility.

22 (6) ~~(7)~~ The department shall establish policies and proce-
 23 dures designed to ensure that money in the accounts of residents
 24 is safeguarded against theft, loss, or misappropriation.

25 Sec. 732. A ~~department~~ STATE facility may accept funds
 26 ~~which~~ THAT a parent, guardian, or other ~~person~~ INDIVIDUAL
 27 wishes to provide for the use or benefit of a resident of the

1 facility. ~~The~~ UNLESS OTHERWISE RESTRICTED BY LAW, THE
2 possession and use of funds so provided ~~shall be~~ ARE governed
3 by section 730, THE INDIVIDUAL PLAN OF SERVICES, and ~~by~~ any
4 additional directions given by the provider of the funds.

5 Sec. 734. A ~~department~~ STATE facility may accept an
6 appointment to serve as a representative payee, fiduciary, or in
7 a similar capacity for payments to a resident under a public or
8 private benefit arrangement UNLESS OTHERWISE RESTRICTED BY LAW.
9 Funds ~~so~~ received ~~shall be~~ UNDER THAT ARRANGEMENT ARE subject
10 to section 730 except to the extent laws or regulations governing
11 payment of the benefits provide otherwise.

12 Sec. 736. (1) A resident may perform labor ~~which~~ THAT
13 contributes to the operation and maintenance of the facility for
14 which the facility would otherwise employ someone only if the
15 resident voluntarily agrees to perform the labor, engaging in the
16 labor would not be inconsistent with the INDIVIDUAL plan of serv-
17 ices for the resident, and the amount of time or effort necessary
18 to perform the labor would not be excessive. In no event shall
19 discharge or privileges be conditioned upon the performance of
20 such labor.

21 (2) A resident who performs labor ~~which~~ THAT contributes
22 to the operation and maintenance of the facility for which the
23 facility would otherwise employ someone shall be compensated
24 appropriately and in accordance with applicable federal and state
25 labor laws, including minimum wage and minimum wage reduction
26 provisions.

1 (3) A resident who performs labor other than that described
2 in subsection (2) shall be compensated an appropriate amount if
3 an economic benefit to another ~~person~~ INDIVIDUAL or agency
4 results from his OR HER labor.

5 (4) The governing body of the facility may provide for com-
6 pensation of a resident when he OR SHE performs labor not gov-
7 erned by subsection (2) or (3).

8 (5) Subsections (1), (2), and (3) ~~shall~~ DO not apply to
9 labor of a personal housekeeping nature ~~, nor to labor~~ OR LABOR
10 performed as a condition of residence in a small group living
11 arrangement.

12 (6) One-half of any compensation paid to a resident
13 ~~pursuant to~~ UNDER this section ~~shall be~~ IS exempt from col-
14 lection ~~pursuant to~~ UNDER this act as payment for services
15 rendered.

16 Sec. 740. (1) A ~~resident~~ RECIPIENT shall not be placed in
17 physical restraint except in the circumstances and under the con-
18 ditions set forth in this section, UNLESS OTHERWISE RESTRICTED BY
19 LAW.

20 (2) A ~~resident~~ RECIPIENT may be restrained only as pro-
21 vided in subsection (3), (4), or (5) AFTER LESS RESTRICTIVE
22 INTERVENTIONS HAVE BEEN CONSIDERED, and only if restraint is
23 essential in order to prevent the ~~resident~~ RECIPIENT from phys-
24 ically harming himself, HERSELF, or others, or in order to pre-
25 vent him OR HER from causing substantial property damage.
26 CONSIDERATION OF LESS RESTRICTIVE MEASURES SHALL BE DOCUMENTED IN
27 THE MEDICAL RECORD.

1 (3) A ~~resident~~ RECIPIENT may be restrained pursuant to an
2 order by a physician made after personal examination of the
3 ~~resident~~ RECIPIENT. An ordered restraint shall continue only
4 for that period of time specified in the order OR 8 HOURS, WHICH-
5 EVER IS LESS.

6 (4) A ~~resident~~ RECIPIENT may be restrained pursuant to an
7 authorization by a physician. An authorized restraint may con-
8 tinue only until a physician can personally examine the
9 ~~resident~~ RECIPIENT OR 8 HOURS, WHICHEVER IS LESS.

10 (5) A ~~resident~~ RECIPIENT may be temporarily restrained FOR
11 A MAXIMUM OF 30 MINUTES without an order or authorization in an
12 emergency. Immediately after imposition of the temporary
13 restraint, a physician shall be contacted. If, after being con-
14 tacted, the physician does not order or authorize the restraint,
15 the restraint shall be removed.

16 (6) ~~The governing body of the facility pursuant to stan-~~
17 ~~dards of the department of mental health~~ ALL HOSPITALS AND
18 CENTERS shall ~~establish in writing~~ ADHERE TO THE DEPARTMENT'S
19 POLICIES AND GUIDELINES REGARDING the maximum length of time
20 ~~ordered, authorized, and temporary~~ restraint PERMITTED UNDER
21 SUBSECTION (3), (4), OR (5) may last, the frequency at which a
22 restrained ~~resident~~ RECIPIENT shall be examined, the ~~persons~~
23 INDIVIDUALS qualified to make the required examinations, the fre-
24 quency at which opportunities for free movement shall be provided
25 a restrained ~~resident~~ RECIPIENT, and TO other regulations
26 ~~which~~ THAT the governing body ~~deems~~ CONSIDERS appropriate.

1 (7) A restrained ~~resident~~ RECIPIENT shall continue to
2 receive food, shall be kept in sanitary conditions, shall be
3 clothed or otherwise covered, shall be given access to toilet
4 facilities, and shall be given the opportunity to sit or lie
5 down.

6 (8) Restraints shall be removed EVERY 2 HOURS FOR NOT LESS
7 THAN 15 MINUTES UNLESS MEDICALLY CONTRAINDICATED OR whenever they
8 are no longer essential in order to achieve the objective which
9 justified their INITIAL application.

10 (9) Each instance of restraint ~~—~~ REQUIRES full justifica-
11 tion for its application, and the results of each periodic exami-
12 nation shall be placed promptly in the record of the ~~resident~~
13 RECIPIENT.

14 (10) IF A RECIPIENT IS RESTRAINED REPEATEDLY, THE
15 RECIPIENT'S INDIVIDUAL PLAN OF SERVICES SHALL BE REVIEWED AND
16 MODIFIED TO FACILITATE THE REDUCTION OF THE USE OF RESTRAINTS.

17 Sec. 742. (1) SECLUSION SHALL BE USED ONLY IN A HOSPITAL OR
18 CENTER. A resident shall not be kept in seclusion except in the
19 circumstances and under the conditions set forth in this
20 section.

21 (2) A resident may be placed in seclusion temporarily only
22 ~~pursuant to~~ UNDER subsection (5) and only if it is essential in
23 order to prevent the resident from physically harming ~~himself~~
24 ~~or~~ others, or in order to prevent the resident from causing sub-
25 stantial property damage. A resident may be placed in seclusion
26 upon an authorization or written order only ~~pursuant to~~ UNDER
27 subsection (3) or (4) and only if it is essential to prevent the

1 resident from physically harming ~~himself or~~ others, or to
2 prevent the resident from causing substantial property damage, or
3 if seclusion ~~would be of clinical or therapeutic benefit for the~~
4 ~~resident~~ IS PART OF A DOCUMENTED BEHAVIOR MANAGEMENT PLAN DEVEL-
5 OPED IN ACCORDANCE WITH DEPARTMENT STANDARDS. A RESIDENT WHO IS
6 SELF-INJURIOUS OR POTENTIALLY SELF-INJURIOUS SHALL NOT BE PLACED
7 IN SECLUSION.

8 (3) A resident may be placed in seclusion ~~pursuant to~~
9 UNDER an order of a qualified professional ~~person~~ made after
10 personal examination of the resident. Ordered seclusion shall
11 continue only for that period of time specified in the order OR
12 FOR 8 HOURS, WHICHEVER IS LESS. AN ORDER FOR A MINOR SHALL CON-
13 TINUE FOR A MAXIMUM OF 4 HOURS.

14 (4) A resident may be placed in seclusion ~~pursuant to~~
15 UNDER an authorization by a qualified professional. ~~person.~~
16 Authorized seclusion shall continue only until a qualified pro-
17 fessional ~~person~~ can personally examine the resident OR 1 HOUR,
18 WHICHEVER IS LESS.

19 (5) Seclusion may be temporarily employed FOR A MAXIMUM OF
20 30 MINUTES in an emergency without an authorization or an order.
21 Immediately after ~~placing~~ the resident IS PLACED in temporary
22 seclusion, a qualified professional ~~person~~ shall be contacted.
23 If, after being contacted, the qualified professional ~~person~~
24 does not authorize or order the seclusion, the resident shall be
25 removed from seclusion.

26 (6) ~~The governing body of the facility pursuant~~ ALL
27 HOSPITALS AND CENTERS SHALL ADHERE to standards of the department

1 ~~of mental health shall establish in writing~~ REGARDING the
2 qualifications necessary to be considered a qualified profes-
3 sional ~~person~~ for purposes of this section, the maximum length
4 of time ~~ordered, authorized, and temporary~~ seclusion PERMITTED
5 UNDER SUBSECTION (3), (4), OR (5) may last, the frequency at
6 which a secluded resident shall be examined, the ~~persons~~ quali-
7 fied ~~to~~ PROFESSIONALS WHO MAY make the required examinations,
8 and TO other regulations ~~which~~ THAT the ~~governing body deems~~
9 DEPARTMENT CONSIDERS appropriate.

10 (7) A secluded resident shall continue to receive food,
11 shall remain clothed unless his OR HER actions make it impracti-
12 cal or inadvisable, shall be kept in sanitary conditions, and
13 shall be provided a bed or similar piece of furniture unless his
14 OR HER actions make it impractical or inadvisable.

15 (8) A secluded resident shall be released from seclusion
16 whenever the circumstance ~~which~~ THAT justified its use ceases
17 to exist.

18 (9) Each instance of seclusion ~~—~~ REQUIRES full justifica-
19 tion for its use, and the results of each periodic examination
20 shall be placed PROMPTLY in the record of the resident.

21 (10) IF A RESIDENT IS SECLUDED REPEATEDLY, THE RESIDENT'S
22 INDIVIDUAL PLAN OF SERVICES SHALL BE REVIEWED AND MODIFIED TO
23 FACILITATE THE REDUCED USE OF SECLUSION.

24 (11) THE DEPARTMENT MAY ESTABLISH POLICIES THAT AMPLIFY,
25 PARTICULARIZE, OR EXPAND ON THIS SECTION.

26 Sec. 744. (1) The freedom of movement of a ~~resident~~
27 RECIPIENT shall not be restricted more than is necessary to

1 provide mental health services to him OR HER, to prevent injury
2 to him OR HER or to others, or to prevent substantial property
3 damage, except that security precautions appropriate to the con-
4 dition and circumstances of ~~a resident~~ AN INDIVIDUAL admitted
5 by order of a criminal court or transferred as a sentence-serving
6 convict from a penal institution may be taken.

7 (2) A RESTRICTION ADOPTED UNDER THE AUTHORITY OF SUBSECTION
8 (1), THE DATE IT EXPIRES, AND JUSTIFICATION FOR ITS ADOPTION
9 SHALL BE PROMPTLY NOTED IN THE RECORD OF THE RECIPIENT.

10 (3) A RESTRICTION ADOPTED UNDER THE AUTHORITY OF SUBSECTION
11 (1) SHALL BE REMOVED WHEN THE CIRCUMSTANCE THAT JUSTIFIED ITS
12 ADOPTION CEASES TO EXIST.

13 Sec. 748. (1) Information in the record of a recipient, and
14 other information acquired in the course of providing mental
15 health services to a recipient, shall be kept confidential and
16 shall not be open to public inspection. The information may be
17 disclosed outside the department, ~~county~~ community mental
18 health SERVICES program, ~~or~~ licensed ~~private~~ facility, OR
19 CONTRACT PROVIDER, whichever is the holder of the record, only in
20 the circumstances and under the conditions set forth in this
21 section.

22 (2) ~~When~~ IF information made confidential by this section
23 is disclosed, the identity of the individual to whom it pertains
24 shall be protected and shall not be disclosed unless it is ger-
25 mane to the authorized purpose for which disclosure was sought;
26 and, when practicable, no other information shall be disclosed

1 unless it is germane to the authorized purpose for which
2 disclosure was sought.

3 (3) ~~Any person~~ AN INDIVIDUAL receiving information made
4 confidential by this section shall disclose the information to
5 others only to the extent consistent with the authorized purpose
6 for which the information was obtained.

7 (4) Except as ~~provided otherwise~~ OTHERWISE PROVIDED in
8 subsection (5), (6), OR (8), when requested, information made
9 confidential by this section shall be disclosed only under 1 or
10 more of the following circumstances:

11 (a) Pursuant to orders or subpoenas of a court of record, or
12 subpoenas of the legislature, unless the information is made
13 privileged by law.

14 (b) To a prosecuting attorney as necessary for the prosecut-
15 ing attorney to participate in a proceeding governed by this
16 act.

17 (c) To an attorney for the recipient, with the ~~recipient's~~
18 consent OF THE RECIPIENT, THE RECIPIENT'S GUARDIAN WITH AUTHORITY
19 TO CONSENT, OR THE PARENT WITH LEGAL AND PHYSICAL CUSTODY OF A
20 MINOR RECIPIENT.

21 (d) ~~When~~ IF necessary in order to comply with another pro-
22 vision of law.

23 (e) To the department ~~when~~ IF the information is necessary
24 in order for the department to discharge a responsibility placed
25 upon it by law.

1 (f) To the office of the auditor general ~~when~~ IF the
2 information is necessary for that office to discharge its
3 constitutional responsibility.

4 (g) To a surviving spouse of the recipient ~~for purposes of~~
5 ~~applying for and receiving benefits~~ or, if there is no surviving
6 spouse, to the ~~person~~ INDIVIDUAL or ~~persons~~ INDIVIDUALS most
7 closely related to the deceased recipient within the third degree
8 of consanguinity as defined in civil law, FOR THE PURPOSE OF
9 APPLYING FOR AND RECEIVING BENEFITS.

10 (5) ~~Information made confidential by this section may be~~
11 ~~disclosed if the holder of the record and the recipient, the par-~~
12 ~~ents of the recipient if the recipient is less than 18 years of~~
13 ~~age, or the recipient's legally appointed guardian consent~~ IF
14 CONSENT IS OBTAINED FROM THE RECIPIENT, THE RECIPIENT'S GUARDIAN
15 WITH AUTHORITY TO CONSENT, THE PARENT WITH LEGAL AND PHYSICAL
16 CUSTODY OF A MINOR RECIPIENT, OR THE COURT-APPOINTED PERSONAL
17 REPRESENTATIVE OR EXECUTOR OF THE ESTATE OF A DECEASED RECIPIENT,
18 INFORMATION MADE CONFIDENTIAL BY THIS SECTION MAY BE DISCLOSED TO
19 ALL OF THE FOLLOWING:

20 (a) ~~To providers~~ PROVIDERS of mental health services to
21 the recipient.

22 (b) ~~To the~~ THE recipient or any other ~~person~~ INDIVIDUAL
23 or agency ~~, provided that~~ UNLESS in the WRITTEN judgment of the
24 holder ~~the~~ the disclosure would ~~not~~ be detrimental to the
25 recipient or others.

26 (6) Information may be disclosed in the discretion of the
27 holder of the record:

1 (a) As necessary in order for the recipient to apply for or
2 receive benefits.

3 (b) As necessary for the purpose of outside research, evalu-
4 ation, accreditation, or statistical compilation, provided that
5 the ~~person~~ INDIVIDUAL who is the subject of the information can
6 be identified from the disclosed information only ~~when~~ IF such
7 identification is essential in order to achieve the purpose for
8 which the information is sought or ~~when~~ IF preventing such
9 identification would clearly be impractical, but in no event
10 ~~when~~ IF the subject of the information is likely to be harmed
11 by ~~such~~ THE identification.

12 (c) To providers of mental or other health services or a
13 public agency, ~~when~~ IF there is a compelling need for disclo-
14 sure based upon a substantial probability of harm to the recipi-
15 ent or other ~~persons~~ INDIVIDUALS.

16 (7) ~~The~~ IF REQUIRED BY FEDERAL LAW, THE department or a
17 ~~county~~ community mental health SERVICES program or licensed
18 ~~private~~ facility shall grant a representative of the protection
19 and advocacy system designated by the governor in compliance with
20 section 931 access to the records of ~~a person with developmental~~
21 ~~disabilities who resides in a facility for persons with develop-~~
22 ~~mental disabilities or a mentally ill person who resides in a~~
23 ~~facility for mentally ill persons if both of the following apply~~
24 ALL OF THE FOLLOWING:

25 (a) A ~~complaint has been received by the protection and~~
26 ~~advocacy system from or on behalf of the resident~~ RECIPIENT, IF
27 THE RECIPIENT, THE RECIPIENT'S GUARDIAN WITH AUTHORITY TO

1 CONSENT, OR A MINOR RECIPIENT'S PARENT WITH LEGAL AND PHYSICAL
2 CUSTODY OF THE RECIPIENT HAS CONSENTED TO THE ACCESS.

3 (b) ~~The resident does not have a legal guardian, or the~~
4 ~~state or the designee of the state is the legal guardian of the~~
5 ~~resident.~~ A RECIPIENT, INCLUDING A RECIPIENT WHO HAS DIED OR
6 WHOSE WHEREABOUTS ARE UNKNOWN, IF ALL OF THE FOLLOWING APPLY:

7 (i) BECAUSE OF MENTAL OR PHYSICAL CONDITION, THE RECIPIENT
8 IS UNABLE TO CONSENT TO THE ACCESS.

9 (ii) THE RECIPIENT DOES NOT HAVE A GUARDIAN OR OTHER LEGAL
10 REPRESENTATIVE, OR THE RECIPIENT'S GUARDIAN IS THE STATE.

11 (iii) THE PROTECTION AND ADVOCACY SYSTEM HAS RECEIVED A COM-
12 PLAINT ON BEHALF OF THE RECIPIENT OR HAS PROBABLE CAUSE TO
13 BELIEVE BASED ON MONITORING OR OTHER EVIDENCE THAT THE RECIPIENT
14 HAS BEEN SUBJECT TO ABUSE OR NEGLECT.

15 (C) A RECIPIENT WHO HAS A GUARDIAN OR OTHER LEGAL REPRESENTATIVE IF ALL OF THE FOLLOWING APPLY:

17 (i) A COMPLAINT HAS BEEN RECEIVED BY THE PROTECTION AND
18 ADVOCACY SYSTEM OR THERE IS PROBABLE CAUSE TO BELIEVE THE HEALTH
19 OR SAFETY OF THE RECIPIENT IS IN SERIOUS AND IMMEDIATE JEOPARDY.

20 (ii) UPON RECEIPT OF THE NAME AND ADDRESS OF THE RECIPIENT'S
21 LEGAL REPRESENTATIVE, THE PROTECTION AND ADVOCACY SYSTEM HAS CON-
22 TACTED THE REPRESENTATIVE AND OFFERED ASSISTANCE IN RESOLVING THE
23 SITUATION.

24 (iii) THE REPRESENTATIVE HAS FAILED OR REFUSED TO ACT ON
25 BEHALF OF THE RECIPIENT.

26 (8) The records, data, and knowledge ~~collected for or by~~
27 ~~individuals or committees assigned a~~ GENERATED BY THE PEER

1 review ~~function under section 143a(1)~~ PROCESS are confidential,
2 shall be used only for the purposes of PEER review, are not
3 public records, and are not subject to court subpoena. ~~This~~
4 ~~subsection does not prevent disclosure of individual case records~~
5 ~~pursuant to this section.~~ THE CONFIDENTIALITY PROVISIONS OF THIS
6 SECTION EXTEND ONLY TO THE FINAL REPORT AND THOSE DOCUMENTS OR
7 PARTS OF DOCUMENTS THAT CONTAIN EVALUATIONS OF PROFESSIONALS AS
8 PART OF THE PEER REVIEW PROCESS.

9 Sec. 750. ~~(1) For the purposes of this section:~~

10 ~~(a) "Psychiatrist" means a person licensed to practice medi-~~
11 ~~cine under part 170 of the public health code, Act No. 368 of the~~
12 ~~Public Acts of 1978, being sections 333.17001 to 333.17008 of the~~
13 ~~Michigan Compiled Laws, or osteopathic medicine under part 175 of~~
14 ~~Act No. 368 of the Public Acts of 1978, being sections 333.17501~~
15 ~~to 333.17556 of the Michigan Compiled Laws, or a person under the~~
16 ~~supervision of a psychiatrist, while engaged in the examination,~~
17 ~~diagnosis, or treatment of a patient for a mental condition.~~

18 ~~(b) "Psychologist" means a person licensed to engage in the~~
19 ~~practice of psychology under part 182 of Act No. 368 of the~~
20 ~~Public Acts of 1978, being sections 333.18201 to 333.18237 of the~~
21 ~~Michigan Compiled Laws, a person with training and experience~~
22 ~~equivalent to that necessary for licensing as a psychologist, a~~
23 ~~person employed by a public agency as a psychologist, or a person~~
24 ~~under the supervision of a psychologist, while engaged in the~~
25 ~~examination, diagnosis, or treatment of a patient for a mental~~
26 ~~condition.~~

1 ~~(c) "Privileged communication" means a communication made to~~
 2 ~~a psychiatrist or psychologist in connection with the~~
 3 ~~examination, diagnosis, or treatment of a patient, or to another~~
 4 ~~person while the other person is participating in the examina-~~
 5 ~~tion, diagnosis, or treatment.~~

6 ~~(d) "Health care corporation" means any of the following:~~

7 ~~(i) A nonprofit dental care corporation incorporated under~~
 8 ~~Act No. 125 of the Public Acts of 1963, being sections 550.351~~
 9 ~~to 550.373 of the Michigan Compiled Laws.~~

10 ~~(ii) A hospital service corporation, medical care corpora-~~
 11 ~~tion, or a consolidated hospital service corporation and medical~~
 12 ~~care corporation incorporated or reincorporated under the non-~~
 13 ~~profit health care corporation reform act, Act No. 350 of the~~
 14 ~~Public Acts of 1980, being sections 550.1101 to 550.1704 of the~~
 15 ~~Michigan Compiled Laws.~~

16 ~~(iii) A health maintenance organization licensed under part~~
 17 ~~210 of Act No. 360 of the Public Acts of 1978, being sections~~
 18 ~~333.21001 to 333.21098 of the Michigan Compiled Laws.~~

19 ~~(e) "Health care insurer" means an insurance company autho-~~
 20 ~~rized to provide health insurance in this state or a legal entity~~
 21 ~~that is self-insured and provides health care benefits to its~~
 22 ~~employees.~~

23 ~~(1) (2)~~ Privileged communications shall not be disclosed
 24 in civil, criminal, legislative, or administrative cases or pro-
 25 ceedings, or in proceedings preliminary to such cases or proceed-
 26 ings, unless the ~~patient~~ RECIPIENT has waived the privilege,
 27 except in the circumstances set forth in this section.

1 (2) ~~(3)~~ Privileged communications shall be disclosed upon
2 request UNDER 1 OR MORE OF THE FOLLOWING CIRCUMSTANCES:

3 (a) ~~When~~ IF the privileged communication is relevant to a
4 physical or mental condition of the ~~patient~~ RECIPIENT that the
5 ~~patient~~ RECIPIENT has introduced as an element of the
6 ~~patient's~~ RECIPIENT'S claim or defense in a civil or adminis-
7 trative case or proceeding or that, after the death of the
8 ~~patient~~ RECIPIENT, has been introduced as an element of the
9 ~~patient's~~ RECIPIENT'S claim or defense by a party to a civil or
10 administrative case or proceeding.

11 (b) ~~When~~ IF the privileged communication is relevant to a
12 matter under consideration in a proceeding governed by this act,
13 but only if the ~~patient~~ RECIPIENT was informed that any commu-
14 nications could be used in the proceeding.

15 (c) ~~When~~ IF the privileged communication is relevant to a
16 matter under consideration in a proceeding to determine the legal
17 competence of the ~~patient~~ RECIPIENT or the ~~patient's~~
18 RECIPIENT'S need for a guardian but only if the ~~patient~~
19 RECIPIENT was informed that any communications made could be used
20 in such a proceeding.

21 (d) In a civil ACTION BY OR ON BEHALF OF THE RECIPIENT or A
22 criminal action ARISING FROM THE TREATMENT OF THE RECIPIENT
23 against the ~~psychiatrist or psychologist~~ MENTAL HEALTH
24 PROFESSIONAL for malpractice.

25 (e) ~~When~~ IF the privileged communication was made during
26 an examination ordered by a court, prior to which the ~~patient~~
27 RECIPIENT was informed that a communication made would not be

1 privileged, but only with respect to the particular purpose for
2 which the examination was ordered.

3 (f) ~~When~~ IF the privileged communication was made during
4 treatment that the ~~patient~~ RECIPIENT was ordered to undergo to
5 render the ~~patient~~ RECIPIENT competent to stand trial on a
6 criminal charge, but only with respect to issues to be determined
7 in proceedings concerned with the competence of the ~~patient~~
8 RECIPIENT to stand trial.

9 (3) ~~(4)~~ In a proceeding in which subsections ~~(2)~~ (1) and
10 ~~(3)~~ (2) prohibit disclosure of a communication made to a psy-
11 chiatrist or psychologist in connection with the examination,
12 diagnosis, or treatment of a ~~patient~~ RECIPIENT, the fact that
13 the ~~patient~~ RECIPIENT has been examined or treated or undergone
14 a diagnosis also shall not be disclosed unless that fact is rele-
15 vant to a determination by a health care insurer, ~~or~~ health
16 care corporation, NONPROFIT DENTAL CARE CORPORATION, OR HEALTH
17 MAINTENANCE ORGANIZATION of its rights and liabilities under a
18 policy, contract, or certificate of insurance or health care
19 benefits.

20 (4) ~~(5)~~ Privileged communications may be disclosed
21 ~~pursuant to~~ UNDER section 946 to comply with the duty set forth
22 in that section.

23 Sec. 752. ~~(1) Providers of mental health services to~~
24 ~~recipients pursuant to standards of the department of mental~~
25 ~~health shall adopt official policies and procedures in writing as~~
26 ~~necessary to implement this chapter.~~ THE DEPARTMENT AND EACH
27 COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL ESTABLISH ITS OWN

1 POLICIES AND PROCEDURES CONCERNING RECIPIENT RIGHTS AND THE
2 OPERATION OF AN OFFICE OF RECIPIENT RIGHTS. THE POLICIES AND
3 PROCEDURES SHALL BE CONSISTENT WITH THIS CHAPTER AND CHAPTER 7A
4 AND INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING:

5 (A) POLICIES AND PROCEDURES DESIGNED TO PROTECT RECIPIENTS
6 FROM, AND PREVENT REPETITION OF, VIOLATIONS OF RIGHTS GUARANTEED
7 BY THIS CHAPTER AND CHAPTER 7A.

8 (B) A MECHANISM FOR PROMPT REPORTING, REVIEW, INVESTIGATION,
9 AND RESOLUTION OF APPARENT OR SUSPECTED VIOLATIONS OF RIGHTS
10 GUARANTEED BY THIS CHAPTER AND CHAPTER 7A.

11 (C) POLICIES AND PROCEDURES THAT ADDRESS ALL OF THE
12 FOLLOWING:

13 (i) CONSENT TO TREATMENT AND SERVICES.

14 (ii) STERILIZATION, CONTRACEPTION, AND ABORTION.

15 (iii) FINGERPRINTING, PHOTOGRAPHING, AUDIOTAPING, AND USE OF
16 1-WAY GLASS.

17 (iv) ABUSE AND NEGLECT, INCLUDING DETAILED CATEGORIES OF
18 TYPE AND SEVERITY.

19 (v) CONFIDENTIALITY AND DISCLOSURE.

20 (vi) TREATMENT BY SPIRITUAL MEANS.

21 (vii) QUALIFICATIONS AND TRAINING FOR RECIPIENT RIGHTS
22 STAFF.

23 (viii) CHANGE IN TYPE OF TREATMENT.

24 (ix) MEDICATION PROCEDURES.

25 (x) USE OF PSYCHOTROPIC DRUGS.

26 (xi) USE OF RESTRAINT.

1 (D) POLICIES AND PROCEDURES THAT ADDRESS ALL OF THE
2 FOLLOWING MATTERS WITH RESPECT TO RESIDENTS:

3 (i) RIGHT TO ENTERTAINMENT MATERIAL, INFORMATION, AND NEWS.

4 (ii) COMPREHENSIVE EXAMINATIONS.

5 (iii) PROPERTY AND FUNDS.

6 (iv) FREEDOM OF MOVEMENT.

7 (v) RESIDENT LABOR.

8 (vi) COMMUNICATION AND VISITS.

9 (vii) USE OF SECLUSION.

10 ~~(2) The policies and procedures may amplify, particularize,~~
11 ~~or expand the rights guaranteed to recipients by this chapter.~~

12 ~~(3) The policies and procedures shall provide a simple mech-~~
13 ~~anism for recipients and others to report apparent violations of~~
14 ~~this chapter, shall provide a system for determining whether in~~
15 ~~fact violations have occurred; and shall ensure that firm and~~
16 ~~fair disciplinary and appropriate remedial action is taken in the~~
17 ~~event of a violation.~~

18 SEC. 753. THE DEPARTMENT SHALL REVIEW THE RECIPIENT RIGHTS
19 SYSTEM OF EACH COMMUNITY MENTAL HEALTH SERVICES PROGRAM IN
20 ACCORDANCE WITH STANDARDS ESTABLISHED UNDER SECTION 232A, TO
21 ENSURE A UNIFORMLY HIGH STANDARD OF RECIPIENT RIGHTS PROTECTION
22 THROUGHOUT THE STATE.

23 Sec. 754. (1) ~~The department, each county community mental~~
24 ~~health program, and any facility operated by a political subdivi-~~
25 ~~sion of the state separate from a county community mental health~~
26 ~~program shall establish an office subordinate only to the chief~~
27 ~~official of the agency establishing it. The office shall receive~~

~~1 reports of and may investigate apparent violations of the rights~~
~~2 guaranteed by this chapter, may act to resolve disputes relating~~
~~3 to apparent violations, may act on behalf of recipients of mental~~
~~4 health services to obtain remedy for any apparent violations, and~~
~~5 shall otherwise endeavor to safeguard the rights guaranteed by~~
~~6 this chapter.~~ THE DEPARTMENT SHALL ESTABLISH A STATE OFFICE OF
7 RECIPIENT RIGHTS SUBORDINATE ONLY TO THE DIRECTOR OF THE
8 DEPARTMENT. THE DEPARTMENT SHALL ENDEAVOR TO ENSURE ALL OF THE
9 FOLLOWING:

10 (A) THE STATE OFFICE OF RECIPIENT RIGHTS HAS SUFFICIENT
11 STAFF AND OTHER RESOURCES NECESSARY TO PERFORM THE DUTIES
12 DESCRIBED IN THIS SECTION.

13 (B) THE PROCESS FOR FUNDING THE STATE OFFICE OF RECIPIENT
14 RIGHTS INCLUDES A REVIEW OF THE FUNDING BY THE STATE RECIPIENT
15 RIGHTS ADVISORY COMMITTEE.

16 (C) THE STATE OFFICE OF RECIPIENT RIGHTS WILL BE PROTECTED
17 FROM PRESSURES THAT COULD INTERFERE WITH THE IMPARTIAL,
18 EVEN-HANDED, AND THOROUGH PERFORMANCE OF ITS DUTIES.

19 (D) COMPLAINANTS, STAFF OF THE STATE OFFICE OF RECIPIENT
20 RIGHTS, AND ANY STAFF ACTING ON BEHALF OF A RECIPIENT WILL BE
21 PROTECTED FROM HARASSMENT OR RETALIATION RESULTING FROM RECIPIENT
22 RIGHTS ACTIVITIES AND THAT APPROPRIATE DISCIPLINARY ACTION WILL
23 BE TAKEN IF THERE IS EVIDENCE OF HARASSMENT OR RETALIATION.

24 (E) THE STATE OFFICE OF RECIPIENT RIGHTS WILL HAVE UNIMPEDED
25 ACCESS TO ALL OF THE FOLLOWING:

1 (i) ALL PROGRAMS AND SERVICES OPERATED BY OR UNDER CONTRACT
2 WITH THE DEPARTMENT EXCEPT WHERE OTHER RECIPIENT RIGHTS SYSTEMS
3 AUTHORIZED BY THIS ACT EXIST.

4 (ii) ALL STAFF EMPLOYED BY OR UNDER CONTRACT WITH THE
5 DEPARTMENT.

6 (iii) ALL EVIDENCE NECESSARY TO CONDUCT A THOROUGH INVESTI-
7 GATION OR TO FULFILL ITS MONITORING FUNCTION.

8 (F) STAFF OF THE STATE OFFICE OF RECIPIENT RIGHTS RECEIVE
9 TRAINING EACH YEAR IN RECIPIENT RIGHTS PROTECTION.

10 (G) APPROPRIATE DISCIPLINARY AND REMEDIAL ACTION IS TAKEN TO
11 RESOLVE VIOLATIONS OF RIGHTS AND NOTIFY THE COMPLAINANTS OF SUB-
12 STANTIATED VIOLATIONS IN A MANNER THAT DOES NOT VIOLATE EMPLOYEE
13 RIGHTS.

14 (H) EACH CONTRACT BETWEEN THE DEPARTMENT AND A PROVIDER
15 SPECIFIES HOW THE RIGHTS OF RECIPIENTS WILL BE PROTECTED WHILE
16 THEY ARE RECEIVING SERVICES UNDER THE CONTRACT.

17 (I) TECHNICAL ASSISTANCE AND TRAINING IN RECIPIENT RIGHTS
18 PROTECTION ARE AVAILABLE TO ALL COMMUNITY MENTAL HEALTH SERVICES
19 PROGRAMS AND OTHER MENTAL HEALTH SERVICE PROVIDERS SUBJECT TO
20 THIS ACT.

21 (2) AFTER CONSULTING WITH THE STATE RECIPIENT RIGHTS
22 ADVISORY COMMITTEE, THE DIRECTOR OF THE DEPARTMENT SHALL SELECT A
23 DIRECTOR OF THE STATE OFFICE OF RECIPIENT RIGHTS WHO HAS THE EDU-
24 CATION, TRAINING, AND EXPERIENCE TO FULFILL THE RESPONSIBILITIES
25 OF THE OFFICE. THE DIRECTOR OF THE DEPARTMENT SHALL NOT DISMISS
26 THE DIRECTOR OF THE STATE OFFICE OF RECIPIENT RIGHTS WITHOUT
27 FIRST CONSULTING THE STATE RECIPIENT RIGHTS ADVISORY COMMITTEE.

1 THE DIRECTOR OF THE STATE OFFICE OF RECIPIENT RIGHTS SHALL HAVE
2 NO DIRECT SERVICE RESPONSIBILITY.

3 (3) THE STATE OFFICE OF RECIPIENT RIGHTS MAY DO ALL OF THE
4 FOLLOWING:

5 (A) INVESTIGATE APPARENT OR SUSPECTED VIOLATIONS OF THE
6 RIGHTS GUARANTEED BY THIS CHAPTER.

7 (B) RESOLVE DISPUTES RELATING TO VIOLATIONS.

8 (C) ACT ON BEHALF OF RECIPIENTS TO OBTAIN APPROPRIATE REME-
9 DIES FOR ANY APPARENT VIOLATIONS.

10 (D) APPLY FOR AND RECEIVE GRANTS, GIFTS, AND BEQUESTS IN
11 ORDER TO EFFECTUATE ANY PURPOSE OF THIS CHAPTER.

12 (4) THE STATE OFFICE OF RECIPIENT RIGHTS SHALL DO ALL OF THE
13 FOLLOWING:

14 (A) ENSURE THAT RECIPIENTS, PARENTS OF MINOR RECIPIENTS, AND
15 GUARDIANS OR OTHER LEGAL REPRESENTATIVES HAVE ACCESS TO SUMMARIES
16 OF THE RIGHTS GUARANTEED BY THIS CHAPTER AND ARE NOTIFIED OF
17 THOSE RIGHTS IN AN UNDERSTANDABLE MANNER, BOTH AT THE TIME SERV-
18 ICES ARE REQUESTED AND PERIODICALLY DURING THE TIME SERVICES ARE
19 PROVIDED TO THE RECIPIENT.

20 (B) ENSURE THAT THE TELEPHONE NUMBER AND ADDRESS OF THE
21 OFFICE OF RECIPIENT RIGHTS AND THE NAMES OF RIGHTS OFFICERS ARE
22 CONSPICUOUSLY POSTED IN ALL SERVICE SITES.

23 (C) MAINTAIN A RECORD SYSTEM FOR ALL REPORTS OF APPARENT OR
24 SUSPECTED RIGHTS VIOLATIONS RECEIVED, INCLUDING A MECHANISM FOR
25 LOGGING IN ALL COMPLAINTS AND A MECHANISM FOR SECURE STORAGE OF
26 ALL INVESTIGATIVE DOCUMENTS AND EVIDENCE FOR A REASONABLE PERIOD
27 OF TIME.

1 (D) INITIATE ACTIONS THAT ARE APPROPRIATE AND NECESSARY TO
2 SAFEGUARD AND PROTECT RIGHTS GUARANTEED BY THIS CHAPTER TO RECIP-
3 IENTS OF SERVICES PROVIDED DIRECTLY BY THE DEPARTMENT OR BY ITS
4 CONTRACT PROVIDERS OTHER THAN COMMUNITY MENTAL HEALTH SERVICES
5 PROGRAMS.

6 (E) RECEIVE REPORTS OF APPARENT OR SUSPECTED VIOLATIONS OF
7 RIGHTS GUARANTEED BY THIS CHAPTER. THE STATE OFFICE OF RECIPIENT
8 RIGHTS SHALL REFER REPORTS OF APPARENT OR SUSPECTED RIGHTS VIOLA-
9 TIONS TO THE RECIPIENT RIGHTS OFFICE OF THE APPROPRIATE PROVIDER
10 TO BE ADDRESSED BY ITS INTERNAL RIGHTS PROTECTION MECHANISMS. IT
11 MAY INTERVENE AS NECESSARY TO ACT ON BEHALF OF RECIPIENTS IN
12 EXTRAORDINARY SITUATIONS IN WHICH THE DIRECTOR OF THE DEPARTMENT
13 CONSIDERS THE RIGHTS PROTECTION SYSTEM OF THE PROVIDER TO BE OUT
14 OF COMPLIANCE WITH THIS ACT AND RULES PROMULGATED UNDER THIS
15 ACT.

16 (F) UPON REQUEST, ADVISE RECIPIENTS OF THE PROCESS BY WHICH
17 A RIGHTS COMPLAINT MAY BE MADE AND ASSIST RECIPIENTS IN PREPARING
18 WRITTEN RIGHTS COMPLAINTS.

19 (G) ADVISE RECIPIENTS THAT THERE ARE ADVOCACY ORGANIZATIONS
20 AVAILABLE TO ASSIST RECIPIENTS IN PREPARING WRITTEN RIGHTS COM-
21 PLAINTS AND OFFER TO REFER RECIPIENTS TO THOSE ORGANIZATIONS.

22 (H) ENSURE THAT EACH SERVICE SITE OPERATED BY THE DEPARTMENT
23 IS VISITED BY RECIPIENT RIGHTS STAFF WITH THE FREQUENCY NECESSARY
24 FOR PROTECTION OF RIGHTS BUT IN NO CASE LESS THAN ANNUALLY.

25 (I) ENSURE THAT ALL INDIVIDUALS EMPLOYED BY OR UNDER CON-
26 TRACT WITH THE DEPARTMENT RECEIVE TRAINING RELATED TO RECIPIENT
27 RIGHTS PROTECTION BEFORE OR WITHIN 30 DAYS AFTER BEING EMPLOYED.

1 (J) ENSURE THAT ALL REPORTS OF APPARENT OR SUSPECTED
2 VIOLATIONS OF RIGHTS WITHIN STATE FACILITIES ARE INVESTIGATED IN
3 ACCORDANCE WITH SECTION 778 AND THAT THOSE REPORTS THAT DO NOT
4 WARRANT INVESTIGATION ARE RECORDED IN ACCORDANCE WITH SUBDIVISION
5 (C).

6 (K) REVIEW SEMIANNUAL STATISTICAL RIGHTS DATA SUBMITTED BY
7 COMMUNITY MENTAL HEALTH SERVICES PROGRAMS TO DETERMINE TRENDS AND
8 PATTERNS IN THE PROTECTION OF RECIPIENT RIGHTS IN THE PUBLIC
9 MENTAL HEALTH SYSTEM AND PROVIDE A SUMMARY OF THE DATA TO COMMU-
10 NITY MENTAL HEALTH SERVICES PROGRAMS.

11 (L) SERVE AS CONSULTANT TO THE DIRECTOR IN MATTERS RELATED
12 TO RECIPIENT RIGHTS.

13 (M) AT LEAST QUARTERLY, PROVIDE AGGREGATE DATA ON COM-
14 PLAINTS, TOGETHER WITH A SUMMARY OF REMEDIAL ACTION TAKEN ON SUB-
15 STANTIATED COMPLAINTS, TO THE DEPARTMENT AND THE STATE RECIPIENT
16 RIGHTS ADVISORY COMMITTEE.

17 (N) SUBMIT TO THE DIRECTOR OF THE DEPARTMENT, FOR AVAILABIL-
18 ITY TO THE PUBLIC, AN ANNUAL REPORT ON THE CURRENT STATUS OF
19 RECIPIENT RIGHTS IN THIS STATE. THE REPORT SHALL BE SUBMITTED
20 NOT LATER THAN DECEMBER 30 OF EACH YEAR FOR THE PRECEDING FISCAL
21 YEAR. THE ANNUAL REPORT SHALL INCLUDE, AT A MINIMUM, ALL OF THE
22 FOLLOWING:

23 (1) AGGREGATE DATA REGARDING ALL REPORTS OF APPARENT OR SUS-
24 PECTED VIOLATIONS OF THE RIGHTS OF RECIPIENTS RECEIVING SERVICES
25 FROM THE DEPARTMENT INCLUDING THE NUMBER OF REPORTS RECEIVED, HOW
26 MANY WERE INVESTIGATED, AND HOW MANY WERE RESOLVED.

1 (ii) THE NUMBER OF SUBSTANTIATED RIGHTS VIOLATIONS BY
2 CATEGORY.

3 (iii) THE REMEDIAL ACTIONS TAKEN ON SUBSTANTIATED RIGHTS
4 VIOLATIONS.

5 (iv) TRAINING RECEIVED BY STAFF OF THE STATE OFFICE OF
6 RECIPIENT RIGHTS.

7 (v) TRAINING PROVIDED BY THE STATE OFFICE OF RECIPIENT
8 RIGHTS TO CONTRACT PROVIDERS.

9 (vi) OUTCOMES OF ASSESSMENTS OF THE RECIPIENT RIGHTS SYSTEM
10 OF EACH COMMUNITY MENTAL HEALTH SERVICES PROGRAM.

11 (vii) IDENTIFICATION OF PATTERNS AND TRENDS IN RIGHTS PRO-
12 TECTION IN THE PUBLIC MENTAL HEALTH SYSTEM IN THIS STATE.

13 (viii) REVIEW OF BUDGETARY ISSUES INCLUDING STAFFING AND
14 FINANCIAL RESOURCES.

15 (ix) SUMMARY OF THE RESULTS OF ANY CONSUMER SATISFACTION
16 SURVEYS CONDUCTED.

17 (x) RECOMMENDATIONS TO THE DEPARTMENT.

18 SEC. 755. (1) EACH COMMUNITY MENTAL HEALTH SERVICES PROGRAM
19 AND EACH LICENSED HOSPITAL SHALL ESTABLISH AN OFFICE OF RECIPIENT
20 RIGHTS SUBORDINATE ONLY TO THE EXECUTIVE DIRECTOR OR HOSPITAL
21 DIRECTOR. EACH COMMUNITY MENTAL HEALTH SERVICES PROGRAM AND EACH
22 LICENSED HOSPITAL SHALL ENDEAVOR TO ENSURE ALL OF THE FOLLOWING:

23 (A) THE OFFICE OF RECIPIENT RIGHTS HAS SUFFICIENT STAFF AND
24 OTHER RESOURCES NECESSARY TO PERFORM THE DUTIES DESCRIBED IN THIS
25 SECTION.

1 (B) THE PROCESS FOR FUNDING THE OFFICE OF RECIPIENT RIGHTS
2 INCLUDES A REVIEW OF THE FUNDING BY THE RECIPIENT RIGHTS ADVISORY
3 COMMITTEE.

4 (C) THE OFFICE OF RECIPIENT RIGHTS WILL BE PROTECTED FROM
5 PRESSURES THAT COULD INTERFERE WITH THE IMPARTIAL, EVEN-HANDED,
6 AND THOROUGH PERFORMANCE OF ITS DUTIES.

7 (D) COMPLAINANTS, STAFF OF THE OFFICE OF RECIPIENT RIGHTS,
8 AND ANY STAFF ACTING ON BEHALF OF A RECIPIENT WILL BE PROTECTED
9 FROM HARASSMENT OR RETALIATION RESULTING FROM RECIPIENT RIGHTS
10 ACTIVITIES AND THAT APPROPRIATE DISCIPLINARY ACTION WILL BE TAKEN
11 IF THERE IS EVIDENCE OF HARASSMENT OR RETALIATION.

12 (E) THE OFFICE OF RECIPIENT RIGHTS WILL HAVE UNIMPEDED
13 ACCESS TO ALL OF THE FOLLOWING:

14 (i) ALL PROGRAMS AND SERVICES OPERATED BY OR UNDER CONTRACT
15 WITH THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR LICENSED
16 HOSPITAL.

17 (ii) ALL STAFF EMPLOYED BY OR UNDER CONTRACT WITH THE COMMU-
18 NITY MENTAL HEALTH SERVICES PROGRAM OR LICENSED HOSPITAL.

19 (iii) ALL EVIDENCE NECESSARY TO CONDUCT A THOROUGH INVESTI-
20 GATION OR TO FULFILL ITS MONITORING FUNCTION.

21 (F) STAFF OF THE OFFICE OF RECIPIENT RIGHTS RECEIVE TRAINING
22 EACH YEAR IN RECIPIENT RIGHTS PROTECTION.

23 (G) APPROPRIATE REMEDIAL ACTION IS TAKEN TO RESOLVE VIOLA-
24 TIONS OF RIGHTS AND NOTIFY THE COMPLAINANTS OF SUBSTANTIATED VIO-
25 LATIONS IN A MANNER THAT DOES NOT VIOLATE EMPLOYEE RIGHTS.

26 (H) EACH CONTRACT BETWEEN THE COMMUNITY MENTAL HEALTH
27 SERVICES PROGRAM OR LICENSED HOSPITAL AND A PROVIDER SPECIFIES

1 HOW THE RIGHTS OF RECIPIENTS WILL BE PROTECTED WHILE THEY ARE
2 RECEIVING SERVICES UNDER THE CONTRACT.

3 (2) THE EXECUTIVE DIRECTOR OR HOSPITAL DIRECTOR SHALL SELECT
4 A DIRECTOR OF THE OFFICE OF RECIPIENT RIGHTS WHO HAS THE EDUCA-
5 TION, TRAINING, AND EXPERIENCE TO FULFILL THE RESPONSIBILITIES OF
6 THE OFFICE. THE EXECUTIVE DIRECTOR SHALL NOT SELECT OR DISMISS
7 THE DIRECTOR OF THE OFFICE OF RECIPIENT RIGHTS WITHOUT FIRST CON-
8 SULTING THE RECIPIENT RIGHTS ADVISORY COMMITTEE. THE DIRECTOR OF
9 THE OFFICE OF RECIPIENT RIGHTS SHALL HAVE NO DIRECT SERVICE
10 RESPONSIBILITY.

11 (3) EACH OFFICE OF RECIPIENT RIGHTS ESTABLISHED UNDER THIS
12 SECTION SHALL DO ALL OF THE FOLLOWING:

13 (A) PROVIDE OR COORDINATE THE PROTECTION OF RECIPIENT RIGHTS
14 FOR ALL DIRECTLY OPERATED OR CONTRACTED SERVICES.

15 (B) ENSURE THAT RECIPIENTS, PARENTS OF MINOR RECIPIENTS, AND
16 GUARDIANS OR OTHER LEGAL REPRESENTATIVES HAVE ACCESS TO SUMMARIES
17 OF THE RIGHTS GUARANTEED BY THIS CHAPTER AND ARE NOTIFIED OF
18 THOSE RIGHTS IN AN UNDERSTANDABLE MANNER, BOTH AT THE TIME SERV-
19 ICES ARE INITIATED AND PERIODICALLY DURING THE TIME SERVICES ARE
20 PROVIDED TO THE RECIPIENT.

21 (C) ENSURE THAT THE TELEPHONE NUMBER AND ADDRESS OF THE
22 OFFICE OF RECIPIENT RIGHTS AND THE NAMES OF RIGHTS OFFICERS ARE
23 CONSPICUOUSLY POSTED IN ALL SERVICE SITES.

24 (D) MAINTAIN A RECORD SYSTEM FOR ALL REPORTS OF APPARENT OR
25 SUSPECTED RIGHTS VIOLATIONS RECEIVED WITHIN THE COMMUNITY MENTAL
26 HEALTH SERVICES PROGRAM SYSTEM OR THE LICENSED HOSPITAL SYSTEM,
27 INCLUDING A MECHANISM FOR LOGGING IN ALL COMPLAINTS AND A

1 MECHANISM FOR SECURE STORAGE OF ALL INVESTIGATIVE DOCUMENTS AND
2 EVIDENCE FOR A REASONABLE PERIOD OF TIME.

3 (E) ENSURE THAT EACH SERVICE SITE IS VISITED WITH THE FRE-
4 QUENCY NECESSARY FOR PROTECTION OF RIGHTS BUT IN NO CASE LESS
5 THAN ANNUALLY.

6 (F) ENSURE THAT ALL INDIVIDUALS EMPLOYED BY OR UNDER CON-
7 TRACT WITH THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR
8 LICENSED HOSPITAL RECEIVE TRAINING RELATED TO RECIPIENT RIGHTS
9 PROTECTION BEFORE OR WITHIN 30 DAYS AFTER BEING EMPLOYED.

10 (G) REVIEW THE RECIPIENT RIGHTS POLICIES AND THE RIGHTS
11 SYSTEM OF EACH PROVIDER OF MENTAL HEALTH SERVICES UNDER CONTRACT
12 WITH THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR LICENSED
13 HOSPITAL TO ENSURE THAT THE RIGHTS PROTECTION SYSTEM OF EACH PRO-
14 VIDER IS OF A UNIFORMLY HIGH STANDARD.

15 (H) SERVE AS CONSULTANT TO THE EXECUTIVE DIRECTOR OR HOSPI-
16 TAL DIRECTOR AND TO STAFF OF THE COMMUNITY MENTAL HEALTH SERVICES
17 PROGRAM OR LICENSED HOSPITAL IN MATTERS RELATED TO RECIPIENT
18 RIGHTS.

19 (I) ENSURE THAT ALL REPORTS OF APPARENT OR SUSPECTED VIOLA-
20 TIONS OF RIGHTS WITHIN THE COMMUNITY MENTAL HEALTH SERVICES PRO-
21 GRAM SYSTEM OR LICENSED HOSPITAL SYSTEM ARE INVESTIGATED IN
22 ACCORDANCE WITH SECTION 778 AND THAT THOSE REPORTS THAT DO NOT
23 WARRANT INVESTIGATION ARE RECORDED IN ACCORDANCE WITH SUBDIVISION
24 (D).

25 (J) SEMIANNUALLY PROVIDE AGGREGATE COMPLAINT DATA, TOGETHER
26 WITH A SUMMARY OF REMEDIAL ACTION TAKEN ON SUBSTANTIATED
27 COMPLAINTS, TO THE DEPARTMENT AND TO THE RECIPIENT RIGHTS

1 ADVISORY COMMITTEE OF THE COMMUNITY MENTAL HEALTH SERVICES
2 PROGRAM OR LICENSED HOSPITAL.

3 (4) THE EXECUTIVE DIRECTOR OR HOSPITAL DIRECTOR SHALL SUBMIT
4 TO THE BOARD OF THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR
5 THE GOVERNING BOARD OF THE LICENSED HOSPITAL AND THE DEPARTMENT
6 AN ANNUAL REPORT PREPARED BY THE OFFICE OF RECIPIENT RIGHTS ON
7 THE CURRENT STATUS OF RECIPIENT RIGHTS IN THE COMMUNITY MENTAL
8 HEALTH SERVICES PROGRAM SYSTEM OR LICENSED HOSPITAL SYSTEM AND A
9 REVIEW OF THE OPERATIONS OF THE OFFICE OF RECIPIENT RIGHTS. THE
10 REPORT SHALL BE SUBMITTED NOT LATER THAN DECEMBER 30 OF EACH YEAR
11 FOR THE PRECEDING FISCAL YEAR OR PERIOD SPECIFIED IN CONTRACT.
12 THE ANNUAL REPORT SHALL INCLUDE, AT A MINIMUM, ALL OF THE
13 FOLLOWING:

14 (A) AGGREGATE DATA REGARDING ALL REPORTS OF APPARENT OR SUS-
15 PECTED VIOLATIONS OF THE RIGHTS OF RECIPIENTS RECEIVING SERVICES
16 FROM THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR LICENSED
17 HOSPITAL INCLUDING THE NUMBER OF REPORTS RECEIVED, HOW MANY WERE
18 INVESTIGATED, AND HOW MANY WERE RESOLVED.

19 (B) THE NUMBER OF SUBSTANTIATED RIGHTS VIOLATIONS BY
20 CATEGORY.

21 (C) THE REMEDIAL ACTIONS TAKEN ON SUBSTANTIATED RIGHTS
22 VIOLATIONS.

23 (D) TRAINING RECEIVED BY STAFF OF THE OFFICE OF RECIPIENT
24 RIGHTS.

25 (E) TRAINING PROVIDED BY THE OFFICE OF RECIPIENT RIGHTS TO
26 CONTRACT PROVIDERS.

1 (F) DESIRED OUTCOMES ESTABLISHED FOR THE OFFICE OF RECIPIENT
2 RIGHTS AND PROGRESS TOWARD THESE OUTCOMES.

3 (G) RECOMMENDATIONS TO THE COMMUNITY MENTAL HEALTH SERVICES
4 PROGRAM BOARD OR LICENSED HOSPITAL GOVERNING BOARD.

5 SEC. 756. (1) THE DIRECTOR SHALL APPOINT A 12-MEMBER STATE
6 RECIPIENT RIGHTS ADVISORY COMMITTEE. THE MEMBERSHIP OF THE COM-
7 MITTEE SHALL BE BROADLY BASED SO AS TO BEST REPRESENT THE VARIED
8 PERSPECTIVES OF DEPARTMENT STAFF, GOVERNMENT OFFICIALS, ATTOR-
9 NEYS, COMMUNITY MENTAL HEALTH SERVICES PROGRAM STAFF, PRIVATE
10 PROVIDERS, RECIPIENTS, AND RECIPIENT INTEREST GROUPS. AT LEAST
11 1/3 OF THE MEMBERSHIP OF THE STATE RECIPIENT RIGHTS ADVISORY COM-
12 MITTEE SHALL BE PRIMARY CONSUMERS OR FAMILY MEMBERS, AND OF THAT
13 1/3, AT LEAST 2 SHALL BE PRIMARY CONSUMERS. IN APPOINTING MEM-
14 BERS TO THE ADVISORY COMMITTEE, THE DIRECTOR SHALL CONSIDER THE
15 RECOMMENDATIONS OF THE DIRECTOR OF THE STATE OFFICE OF RECIPIENT
16 RIGHTS AND INDIVIDUALS WHO ARE MEMBERS OF THE RECIPIENT RIGHTS
17 ADVISORY COMMITTEE ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
18 THAT ADDED THIS SECTION.

19 (2) THE STATE RECIPIENT RIGHTS ADVISORY COMMITTEE SHALL DO
20 ALL OF THE FOLLOWING:

21 (A) MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AS NECES-
22 SARY, TO CARRY OUT ITS RESPONSIBILITIES.

23 (B) MAINTAIN A CURRENT LIST OF MEMBERS' NAMES AND A SEPARATE
24 LIST OF CATEGORIES REPRESENTED, TO BE MADE AVAILABLE TO INDIVIDU-
25 ALS UPON REQUEST.

1 (C) PROTECT THE STATE OFFICE OF RECIPIENT RIGHTS FROM
2 PRESSURES THAT COULD INTERFERE WITH THE IMPARTIAL, EVENHANDED,
3 AND THOROUGH PERFORMANCE OF ITS FUNCTIONS.

4 (D) RECOMMEND TO THE DIRECTOR OF THE DEPARTMENT CANDIDATES
5 FOR THE POSITION OF DIRECTOR OF THE STATE OFFICE OF RECIPIENT
6 RIGHTS AND CONSULT WITH THE DIRECTOR REGARDING ANY PROPOSED DIS-
7 MISSAL OF THE DIRECTOR OF THE STATE OFFICE OF RECIPIENT RIGHTS.

8 (E) SERVE IN AN ADVISORY CAPACITY TO THE DIRECTOR OF THE
9 DEPARTMENT AND THE DIRECTOR OF THE STATE OFFICE OF RECIPIENT
10 RIGHTS.

11 (F) REVIEW AND PROVIDE COMMENTS ON THE REPORT SUBMITTED BY
12 THE STATE OFFICE OF RECIPIENT RIGHTS TO THE DEPARTMENT UNDER SEC-
13 TION 754.

14 (3) MEETINGS OF THE STATE RECIPIENT RIGHTS ADVISORY COMMIT-
15 TEE ARE SUBJECT TO THE OPEN MEETINGS ACT, ACT NO. 267 OF THE
16 PUBLIC ACTS OF 1976, BEING SECTIONS 15.261 TO 15.275 OF THE
17 MICHIGAN COMPILED LAWS. MINUTES SHALL BE MAINTAINED AND MADE
18 AVAILABLE TO INDIVIDUALS UPON REQUEST.

19 SEC. 757. (1) THE BOARD OF EACH COMMUNITY MENTAL HEALTH
20 SERVICES PROGRAM SHALL APPOINT A RECIPIENT RIGHTS ADVISORY
21 COMMITTEE. AT LEAST 1/3 OF THE MEMBERSHIP SHALL BE PRIMARY CON-
22 SUMERS OR FAMILY MEMBERS, AND OF THAT 1/3, AT LEAST 1/2 SHALL BE
23 PRIMARY CONSUMERS.

24 (2) THE RECIPIENT RIGHTS COMMITTEE SHALL DO ALL OF THE
25 FOLLOWING:

26 (A) MEET AT LEAST SEMIANNUALLY OR AS NECESSARY TO CARRY OUT
27 ITS RESPONSIBILITIES.

1 (B) MAINTAIN A CURRENT LIST OF MEMBERS' NAMES AND A SEPARATE
2 LIST OF CATEGORIES REPRESENTED, TO BE MADE AVAILABLE TO INDIVIDU-
3 ALS UPON REQUEST.

4 (C) PROTECT THE OFFICE OF RECIPIENT RIGHTS FROM PRESSURES
5 THAT COULD INTERFERE WITH THE IMPARTIAL, EVENHANDED, AND THOROUGH
6 PERFORMANCE OF ITS FUNCTIONS.

7 (D) RECOMMEND CANDIDATES FOR DIRECTOR OF THE OFFICE OF
8 RECIPIENT RIGHTS TO THE EXECUTIVE DIRECTOR, AND CONSULT WITH THE
9 EXECUTIVE DIRECTOR REGARDING ANY PROPOSED DISMISSAL OF THE DIREC-
10 TOR OF THE OFFICE OF RECIPIENT RIGHTS.

11 (E) SERVE IN AN ADVISORY CAPACITY TO THE EXECUTIVE DIRECTOR
12 AND THE DIRECTOR OF THE OFFICE OF RECIPIENT RIGHTS.

13 (F) REVIEW AND PROVIDE COMMENTS ON THE REPORT SUBMITTED BY
14 THE EXECUTIVE DIRECTOR TO THE COMMUNITY MENTAL HEALTH SERVICES
15 PROGRAM BOARD UNDER SECTION 755.

16 SEC. 758. UNLESS EXEMPTED BY CONTRACT, EACH LICENSED HOSPI-
17 TAL SHALL APPOINT A RECIPIENT RIGHTS ADVISORY COMMITTEE. AT
18 LEAST 1/3 OF THE MEMBERSHIP SHALL BE PRIMARY CONSUMERS OR FAMILY
19 MEMBERS AND, OF THAT 1/3, AT LEAST 1/2 SHALL BE PRIMARY
20 CONSUMERS. THE RECIPIENT RIGHTS ADVISORY COMMITTEE SHALL DO ALL
21 OF THE FOLLOWING:

22 (A) MEET AT LEAST SEMIANNUALLY OR AS NECESSARY TO CARRY OUT
23 ITS RESPONSIBILITIES.

24 (B) MAINTAIN A CURRENT LIST OF MEMBERS' NAMES AND A SEPARATE
25 LIST OF CATEGORIES REPRESENTED, TO BE MADE AVAILABLE TO INDIVIDU-
26 ALS UPON REQUEST.

1 (C) PROTECT THE OFFICE OF RECIPIENT RIGHTS FROM PRESSURES
2 THAT COULD INTERFERE WITH THE IMPARTIAL, EVEN-HANDED, AND
3 THOROUGH PERFORMANCE OF ITS FUNCTIONS.

4 (D) REVIEW AND PROVIDE COMMENTS ON THE REPORT SUBMITTED BY
5 THE HOSPITAL DIRECTOR TO THE GOVERNING BOARD OF THE LICENSED HOS-
6 PITAL UNDER SECTION 755.

7 CHAPTER 7A

8 DISPUTE RESOLUTION

9 SEC. 772. AS USED IN THIS CHAPTER:

10 (A) "ALLEGATION" MEANS AN ASSERTION OF FACT MADE BY AN INDI-
11 VIDUAL THAT HAS NOT YET BEEN PROVED OR SUPPORTED WITH EVIDENCE.

12 (B) "APPEALS COMMITTEE" MEANS A COMMITTEE APPOINTED BY THE
13 DIRECTOR OR BY THE BOARD OF A COMMUNITY MENTAL HEALTH SERVICES
14 PROGRAM OR LICENSED HOSPITAL UNDER SECTION 774.

15 (C) "APPELLANT" MEANS THE RECIPIENT, PARENT, OR GUARDIAN WHO
16 APPEALS A RECIPIENT RIGHTS FINDING OR A RESPONDENT'S ACTION TO AN
17 APPEALS COMMITTEE.

18 (D) "COMPLAINANT" MEANS AN INDIVIDUAL WHO FILES A RIGHTS
19 COMPLAINT.

20 (E) "INVESTIGATION" MEANS A DETAILED INQUIRY INTO AND SYS-
21 TEMATIC EXAMINATION OF AN ALLEGATION RAISED IN A RIGHTS
22 COMPLAINT.

23 (F) "OFFICE" MEANS ALL OF THE FOLLOWING:

24 (i) WITH RESPECT TO A RIGHTS COMPLAINT INVOLVING SERVICES
25 PROVIDED DIRECTLY BY OR UNDER CONTRACT WITH THE DEPARTMENT,
26 UNLESS THE PROVIDER IS A COMMUNITY MENTAL HEALTH SERVICES

1 PROGRAM, THE STATE OFFICE OF RECIPIENT RIGHTS CREATED UNDER
2 SECTION 754.

3 (ii) WITH RESPECT TO A RIGHTS COMPLAINT INVOLVING SERVICES
4 PROVIDED DIRECTLY BY OR UNDER CONTRACT WITH A COMMUNITY MENTAL
5 HEALTH SERVICES PROGRAM, THE OFFICE OF RECIPIENT RIGHTS CREATED
6 BY A COMMUNITY MENTAL HEALTH SERVICES PROGRAM UNDER SECTION 755.

7 (iii) WITH RESPECT TO A RIGHTS COMPLAINT INVOLVING SERVICES
8 PROVIDED BY A LICENSED HOSPITAL, THE OFFICE OF RECIPIENT RIGHTS
9 CREATED BY A LICENSED HOSPITAL UNDER SECTION 755.

10 (G) "MEDIATOR" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
11 THE COMMUNITY DISPUTE RESOLUTION ACT, ACT NO. 260 OF THE PUBLIC
12 ACTS OF 1988, BEING SECTION 691.1552 OF THE MICHIGAN COMPILED
13 LAWS.

14 (H) "RIGHTS COMPLAINT" MEANS A WRITTEN OR ORAL STATEMENT
15 THAT MEETS THE REQUIREMENTS OF SECTION 776.

16 (I) "RESPONDENT" MEANS THE SERVICE PROVIDER THAT HAD RESPON-
17 SIBILITY AT THE TIME OF AN ALLEGED RIGHTS VIOLATION FOR THE SERV-
18 ICES WITH RESPECT TO WHICH A RIGHTS COMPLAINT HAS BEEN FILED.

19 SEC. 774. (1) THE DIRECTOR SHALL APPOINT AN APPEALS COMMIT-
20 TEE CONSISTING OF 7 INDIVIDUALS TO HEAR APPEALS OF RECIPIENT
21 RIGHTS MATTERS. THE COMMITTEE SHALL INCLUDE AT LEAST 3 MEMBERS
22 OF THE STATE RECIPIENT RIGHTS ADVISORY COMMITTEE AND 2 PRIMARY
23 CONSUMERS.

24 (2) THE BOARD OF A COMMUNITY MENTAL HEALTH SERVICES PROGRAM
25 SHALL DO 1 OF THE FOLLOWING:

26 (A) APPOINT AN APPEALS COMMITTEE CONSISTING OF 7 INDIVIDUALS
27 TO HEAR APPEALS OF RECIPIENTS' RIGHTS MATTERS. THE APPEALS

1 COMMITTEE SHALL INCLUDE AT LEAST 3 MEMBERS OF THE RECIPIENT
2 RIGHTS ADVISORY COMMITTEE, 2 BOARD MEMBERS, AND 2 PRIMARY
3 CONSUMERS. A MEMBER OF THE APPEALS COMMITTEE MAY REPRESENT MORE
4 THAN 1 OF THESE CATEGORIES.

5 (B) DESIGNATE THE RECIPIENT RIGHTS ADVISORY COMMITTEE AS THE
6 APPEALS COMMITTEE.

7 (3) THE GOVERNING BODY OF A LICENSED HOSPITAL SHALL DESIG-
8 NATE THE APPEALS COMMITTEE OF THE LOCAL COMMUNITY MENTAL HEALTH
9 SERVICES PROGRAM FOR THE APPEAL OF A RIGHTS COMPLAINT BROUGHT BY
10 A CONSUMER OF THAT COMMUNITY MENTAL HEALTH SERVICES PROGRAM.

11 (4) THE GOVERNING BODY OF A LICENSED HOSPITAL SHALL DO 1 OF
12 THE FOLLOWING WITH RESPECT TO AN APPEAL OF A RIGHTS COMPLAINT
13 BROUGHT BY AN INDIVIDUAL WHO IS NOT A CONSUMER OF A COMMUNITY
14 MENTAL HEALTH SERVICES PROGRAM:

15 (A) APPOINT AN APPEALS COMMITTEE CONSISTING OF 7 MEMBERS, 2
16 OF WHOM SHALL BE PRIMARY CONSUMERS AND 2 OF WHOM SHALL BE COMMU-
17 NITY MEMBERS.

18 (B) BY AGREEMENT WITH THE DEPARTMENT, DESIGNATE THE APPEALS
19 COMMITTEE APPOINTED BY THE DEPARTMENT TO HEAR APPEALS OF RIGHTS
20 COMPLAINTS BROUGHT AGAINST THE LICENSED HOSPITAL.

21 (5) AN APPEALS COMMITTEE APPOINTED UNDER THIS SECTION MAY
22 REQUEST CONSULTATION AND TECHNICAL ASSISTANCE FROM THE
23 DEPARTMENT.

24 SEC. 776. (1) A RECIPIENT, OR ANOTHER INDIVIDUAL ON BEHALF
25 OF A RECIPIENT, MAY FILE A RIGHTS COMPLAINT WITH THE OFFICE
26 ALLEGING A VIOLATION OF THIS ACT OR RULES PROMULGATED UNDER THIS
27 ACT.

1 (2) A RIGHTS COMPLAINT SHALL CONTAIN ALL OF THE FOLLOWING
2 INFORMATION:

3 (A) A STATEMENT OF THE ALLEGATIONS THAT GIVE RISE TO THE
4 DISPUTE.

5 (B) A STATEMENT OF THE RIGHT THAT THE COMPLAINANT BELIEVES
6 HAS BEEN VIOLATED.

7 (C) THE SPECIFIC OUTCOME THAT THE COMPLAINANT IS SEEKING AS
8 A RESOLUTION TO THE COMPLAINT.

9 (3) EACH RIGHTS COMPLAINT SHALL BE RECORDED BY THE OFFICE,
10 AND ACKNOWLEDGMENT OF THE RECORDING SHALL BE GIVEN TO THE COM-
11 PLAINANT ORALLY OR IN WRITING BY THE NEXT WORKING DAY.

12 (4) A COMPLAINANT SHALL BE NOTIFIED BY THE OFFICE IF THE
13 OFFICE DETERMINES THAT NO INVESTIGATION OF THE RIGHTS COMPLAINT
14 IS WARRANTED.

15 (5) IF A RIGHTS COMPLAINT HAS BEEN FILED REGARDING THE CON-
16 DUCT OF THE EXECUTIVE DIRECTOR, THE RIGHTS INVESTIGATION SHALL BE
17 CONDUCTED BY THE OFFICE OF ANOTHER COMMUNITY MENTAL HEALTH SERV-
18 ICES PROGRAM BY AGREEMENT OF BOTH BOARDS.

19 SEC. 778. (1) THE OFFICE SHALL INITIATE INVESTIGATION OF
20 APPARENT OR SUSPECTED RIGHTS VIOLATIONS IN A TIMELY AND EFFICIENT
21 MANNER. INVESTIGATION SHALL BE INITIATED IMMEDIATELY IN CASES
22 INVOLVING ALLEGED ABUSE, NEGLECT, SERIOUS INJURY, OR DEATH OF A
23 RECIPIENT INVOLVING AN APPARENT OR SUSPECTED RIGHTS VIOLATION.

24 (2) INVESTIGATION ACTIVITIES FOR EACH RIGHTS COMPLAINT SHALL
25 BE ACCURATELY RECORDED BY THE OFFICE.

1 (3) THE OFFICE SHALL DETERMINE WHETHER A RIGHT WAS VIOLATED
2 BY USING THE PREPONDERANCE OF THE EVIDENCE AS ITS STANDARD OF
3 PROOF.

4 (4) THE OFFICE SHALL ISSUE A WRITTEN STATUS REPORT EVERY 30
5 CALENDAR DAYS DURING THE COURSE OF THE INVESTIGATION. THE REPORT
6 SHALL BE SUBMITTED TO THE COMPLAINANT, THE RESPONDENT, AND THE
7 RESPONSIBLE MENTAL HEALTH AGENCY. A STATUS REPORT SHALL INCLUDE
8 ALL OF THE FOLLOWING:

9 (A) STATEMENT OF THE ALLEGATIONS.

10 (B) STATEMENT OF THE ISSUES INVOLVED.

11 (C) CITATIONS TO RELEVANT PROVISIONS OF THIS ACT, RULES, AND
12 POLICIES.

13 (D) INVESTIGATIVE PROGRESS TO DATE.

14 (E) EXPECTED DATE FOR COMPLETION OF THE INVESTIGATION.

15 (5) UPON COMPLETION OF THE INVESTIGATION, THE OFFICE SHALL
16 SUBMIT A WRITTEN INVESTIGATIVE REPORT TO THE RESPONDENT AND TO
17 THE RESPONSIBLE MENTAL HEALTH AGENCY. ISSUANCE OF A FINAL INVE-
18 TIGATIVE REPORT MAY BE DELAYED PENDING COMPLETION OF INVESTIGA-
19 TIONS THAT INVOLVE EXTERNAL AGENCIES, INCLUDING LAW ENFORCEMENT
20 AGENCIES AND THE DEPARTMENT OF SOCIAL SERVICES. THE REPORT SHALL
21 INCLUDE ALL OF THE FOLLOWING:

22 (A) STATEMENT OF THE ALLEGATIONS.

23 (B) STATEMENT OF THE ISSUES INVOLVED.

24 (C) CITATIONS TO RELEVANT PROVISIONS OF THIS ACT, RULES, AND
25 POLICIES.

26 (D) INVESTIGATIVE FINDINGS.

1 (E) CONCLUSIONS.

2 (F) RECOMMENDATIONS, IF APPROPRIATE.

3 (6) A RIGHTS INVESTIGATION MAY BE REOPENED OR REINVESTIGATED
4 BY THE OFFICE IF THERE IS NEW EVIDENCE THAT WAS NOT PRESENTED AT
5 THE TIME OF THE INVESTIGATION.

6 SEC. 780. (1) IF IT HAS BEEN DETERMINED THROUGH INVESTIGA-
7 TION THAT A RIGHT HAS BEEN VIOLATED, THE RESPONDENT SHALL TAKE
8 APPROPRIATE REMEDIAL ACTION THAT MEETS ALL OF THE FOLLOWING
9 REQUIREMENTS:

10 (A) CORRECTS OR REMEDIES RIGHTS VIOLATIONS.

11 (B) IS IMPLEMENTED IN A TIMELY MANNER.

12 (C) ATTEMPTS TO PREVENT A RECURRENCE OF THE RIGHTS
13 VIOLATION.

14 (2) THE ACTION SHALL BE DOCUMENTED AND MADE PART OF THE
15 RECORD MAINTAINED BY THE OFFICE.

16 SEC. 782. (1) THE EXECUTIVE DIRECTOR OR HOSPITAL DIRECTOR
17 SHALL SUBMIT A WRITTEN SUMMARY REPORT TO THE COMPLAINANT WITHIN
18 90 DAYS AFTER IT RECEIVES THE RIGHTS COMPLAINT. THE SUMMARY
19 REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

20 (A) STATEMENT OF THE ALLEGATIONS.

21 (B) SUMMARY OF INVESTIGATIVE FINDINGS.

22 (C) RECOMMENDATIONS MADE BY THE OFFICE.

23 (D) ACTION TAKEN, OR PLAN OF ACTION PROPOSED, BY THE
24 RESPONDENT.

25 (E) IN THE CASE OF A RIGHTS COMPLAINT THAT IS NOT SUBSTANTI-
26 ATED, A STATEMENT DESCRIBING THE COMPLAINANT'S RIGHT TO APPEAL.

1 (2) INFORMATION IN THE SUMMARY REPORT SHALL BE PROVIDED
2 WITHIN THE CONSTRAINTS OF SECTIONS 748 AND 750 AND SHALL NOT
3 VIOLATE THE RIGHTS OF ANY EMPLOYEE.

4 SEC. 784. (1) NOT LATER THAN 21 WORKING DAYS AFTER RECEIPT
5 OF THE SUMMARY REPORT UNDER SECTION 782, THE COMPLAINANT MAY FILE
6 A WRITTEN APPEAL WITH THE APPEALS COMMITTEE WITH JURISDICTION
7 OVER THE OFFICE OF RECIPIENT RIGHTS THAT ISSUED THE SUMMARY
8 REPORT. THE APPEAL SHALL BE MADE ON 1 OF THE FOLLOWING GROUNDS:

9 (A) THE INVESTIGATIVE FINDINGS OF THE OFFICE ARE NOT CONSIS-
10 TENT WITH THE FACTS OR WITH LAW, RULES, OR GUIDELINES.

11 (B) THE ACTION TAKEN OR PLAN OF ACTION PROPOSED BY THE
12 RESPONDENT DOES NOT PROVIDE AN ADEQUATE REMEDY.

13 (2) THE OFFICE SHALL ADVISE THE COMPLAINANT THAT THERE ARE
14 ADVOCACY ORGANIZATIONS AVAILABLE TO ASSIST THE COMPLAINANT IN
15 PREPARING THE WRITTEN APPEAL AND SHALL OFFER TO REFER THE COM-
16 PLAINANT TO THOSE ORGANIZATIONS. IN THE ABSENCE OF ASSISTANCE
17 FROM AN ADVOCACY ORGANIZATION, THE OFFICE SHALL ASSIST THE COM-
18 PLAINANT IN MEETING THE PROCEDURAL REQUIREMENTS OF A WRITTEN
19 APPEAL.

20 (3) WITHIN 5 BUSINESS DAYS AFTER RECEIPT OF THE WRITTEN
21 APPEAL, THE APPEALS COMMITTEE SHALL REVIEW THE APPEAL TO DETER-
22 MINE WHETHER IT MEETS THE CRITERIA SET FORTH IN SUBSECTION (1).
23 IF THE APPEAL IS DENIED, THE COMPLAINANT SHALL BE NOTIFIED IN
24 WRITING. IF THE APPEAL IS ACCEPTED, NOTICE SHALL BE PROVIDED TO
25 THE COMPLAINANT, AND A COPY OF THE APPEAL SHALL BE PROVIDED TO
26 THE RESPONDENT AND THE RESPONSIBLE MENTAL HEALTH AGENCY.

1 (4) WITHIN 30 DAYS AFTER RECEIPT OF A WRITTEN APPEAL, THE
2 APPEALS COMMITTEE SHALL MEET AND REVIEW THE FACTS AS STATED IN
3 ALL COMPLAINT INVESTIGATION DOCUMENTS. WITHIN 30 DAYS AFTER IT
4 FIRST MEETS TO REVIEW AN APPEAL UNDER THIS SECTION, THE APPEALS
5 COMMITTEE SHALL DO 1 OF THE FOLLOWING:

6 (A) UPHOLD THE INVESTIGATIVE FINDINGS OF THE OFFICE AND THE
7 ACTION TAKEN OR PLAN OF ACTION PROPOSED BY THE RESPONDENT.

8 (B) RETURN THE INVESTIGATION TO THE OFFICE AND REQUEST THAT
9 IT BE REOPENED OR REINVESTIGATED.

10 (C) UPHOLD THE INVESTIGATIVE FINDINGS OF THE OFFICE BUT REC-
11 OMMEND THAT THE RESPONDENT TAKE ADDITIONAL OR DIFFERENT ACTION TO
12 REMEDY THE VIOLATION.

13 (D) IF THE RESPONSIBLE MENTAL HEALTH AGENCY IS A COMMUNITY
14 MENTAL HEALTH SERVICES PROGRAM OR A LICENSED HOSPITAL, RECOMMEND
15 THAT THE BOARD OF THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR
16 THE GOVERNING BOARD OF THE LICENSED HOSPITAL REQUEST AN EXTERNAL
17 INVESTIGATION BY THE STATE OFFICE OF RECIPIENT RIGHTS.

18 (5) THE APPEALS COMMITTEE SHALL DOCUMENT ITS DECISION IN
19 WRITING. WITHIN 10 WORKING DAYS AFTER REACHING ITS DECISION, IT
20 SHALL PROVIDE COPIES OF THE DECISION TO THE RESPONDENT, APPEL-
21 LANT, RECIPIENT IF DIFFERENT THAN THE APPELLANT, THE RECIPIENT'S
22 GUARDIAN IF A GUARDIAN HAS BEEN APPOINTED, AND THE RESPONSIBLE
23 MENTAL HEALTH AGENCY.

24 SEC. 786. (1) AFTER A WRITTEN APPEAL HAS BEEN FILED UNDER
25 SECTION 784, THE PARTIES MAY AGREE TO MEDIATE THE DISPUTE. A
26 MEDIATOR SHALL BE JOINTLY SELECTED TO FACILITATE A MUTUALLY
27 ACCEPTABLE SETTLEMENT BETWEEN THE APPELLANT AND RESPONDENT. THE

1 MEDIATOR SHALL BE AN INDIVIDUAL WHO HAS RECEIVED TRAINING IN
2 MEDIATION AND WHO IS NOT INVOLVED IN ANY MANNER WITH THE DISPUTE
3 OR WITH THE PROVISION OF SERVICES TO THE APPELLANT.

4 (2) THE RESPONDENT SHALL INFORM THE APPELLANT THAT AN APPEAL
5 HEARING BEFORE THE APPEALS COMMITTEE WILL PROCEED IF THE APPEL-
6 LANT DOES NOT AGREE TO MEDIATION.

7 (3) IF THE PARTIES AGREE TO MEDIATION AND REACH AGREEMENT
8 THROUGH THE MEDIATION PROCESS, THE MEDIATOR SHALL PREPARE A
9 REPORT SUMMARIZING THE AGREEMENT, WHICH SHALL BE SIGNED BY THE
10 COMPLAINANT AND RESPONDENT. THE SIGNED AGREEMENT SHALL BE BIND-
11 ING ON BOTH PARTIES.

12 (4) IF THE PARTIES FAIL TO REACH AGREEMENT THROUGH THE MEDI-
13 ATION PROCESS, THE MEDIATOR SHALL DOCUMENT THAT FACT IN WRITING
14 AND PROVIDE A COPY OF THE DOCUMENTATION TO BOTH PARTIES WITHIN 10
15 DAYS AFTER THE END OF THE MEDIATION PROCESS.

16 (5) IF THE PARTIES ENGAGE IN MEDIATION, ALL APPEAL AND
17 RESPONSE TIMES REQUIRED UNDER THIS CHAPTER ARE SUSPENDED DURING
18 THE PERIOD OF TIME THE MEDIATION PROCESS IS TAKING PLACE. THE
19 SUSPENSION OF TIME PERIODS BEGINS ON THE DAY THE PARTIES AGREE TO
20 MEDIATE AND EXPIRES 5 DAYS AFTER THE DAY THE MEDIATOR PROVIDES
21 THE WRITTEN DOCUMENTATION TO THE PARTIES THAT MEDIATION WAS NOT
22 SUCCESSFUL.

23 Sec. 800. As used in this chapter, unless the context
24 requires otherwise:

25 (A) "ABILITY TO PAY" MEANS THE ABILITY OF A RESPONSIBLE
26 PARTY TO PAY FOR THE COST OF SERVICES, AS DETERMINED BY THE
27 DEPARTMENT UNDER SECTIONS 818 AND 819.

1 (B) "COST OF SERVICES" MEANS THE TOTAL OPERATING AND CAPITAL
2 COSTS INCURRED BY THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH
3 SERVICES PROGRAM WITH RESPECT TO, OR ON BEHALF OF, AN
4 INDIVIDUAL. COST OF SERVICES DOES NOT INCLUDE THE COST OF
5 RESEARCH PROGRAMS OR EXPENSES OF STATE OR COUNTY GOVERNMENT UNRE-
6 LATED TO THE PROVISION OF MENTAL HEALTH SERVICES.

7 (C) ~~(a)~~ "Individual" means the ~~person~~ INDIVIDUAL, minor
8 or adult, who receives services FROM THE DEPARTMENT OR A COMMU-
9 NITY MENTAL HEALTH SERVICES PROGRAM OR FROM A PROVIDER UNDER CON-
10 TRACT WITH THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERVICES
11 PROGRAM.

12 ~~(b) "Spouse" means the husband or wife of the individual.~~

13 (D) "INPATIENT SERVICES" MEANS 24-HOUR CARE AND TREATMENT
14 SERVICES PROVIDED BY A STATE FACILITY OR A LICENSED HOSPITAL.

15 (E) "INSURANCE BENEFITS" MEANS PAYMENTS MADE IN ACCORDANCE
16 WITH INSURANCE COVERAGE FOR THE COST OF HEALTH CARE SERVICES PRO-
17 VIDED TO AN INDIVIDUAL.

18 (F) "INSURANCE COVERAGE" MEANS ANY POLICY, PLAN, PROGRAM, OR
19 FUND ESTABLISHED OR MAINTAINED FOR THE PURPOSE OF PROVIDING FOR
20 ITS PARTICIPANTS OR THEIR DEPENDENTS MEDICAL, SURGICAL, OR HOSPI-
21 TAL BENEFITS. INSURANCE COVERAGE INCLUDES, BUT IS NOT LIMITED
22 TO, MEDICAID OR MEDICARE; POLICIES, PLANS, PROGRAMS, OR FUNDS
23 MAINTAINED BY NONPROFIT HOSPITAL SERVICE AND MEDICAL CARE CORPO-
24 RATIONS, HEALTH MAINTENANCE ORGANIZATIONS, AND PRUDENT PURCHASER
25 ORGANIZATIONS; AND COMMERCIAL, UNION, ASSOCIATION, SELF-FUNDED,
26 AND ADMINISTRATIVE SERVICE POLICIES, PLANS, PROGRAMS, AND FUNDS.

1 (G) "NONRESIDENTIAL SERVICES" MEANS CARE OR TREATMENT
2 SERVICES THAT ARE NOT INPATIENT OR RESIDENTIAL SERVICES.

3 (H) ~~(c)~~ "Parents" means the legal father and mother of an
4 unmarried individual who is less than 18 years of age.

5 ~~(d) "Department" means the department of mental health or~~
6 ~~its official designee.~~

7 (I) "RESIDENTIAL SERVICES" MEANS 24-HOUR DEPENDENT CARE AND
8 TREATMENT SERVICES PROVIDED BY ADULT FOSTER CARE FACILITIES UNDER
9 CONTRACT TO THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERVICES
10 PROGRAM OR PROVIDED DIRECTLY BY A COMMUNITY MENTAL HEALTH SERV-
11 ICES PROGRAM.

12 (J) "RESPONSIBLE PARTY" MEANS A PERSON WHO IS FINANCIALLY
13 LIABLE FOR SERVICES FURNISHED TO THE INDIVIDUAL. RESPONSIBLE
14 PARTY INCLUDES THE INDIVIDUAL AND, AS APPLICABLE, THE
15 INDIVIDUAL'S SPOUSE AND PARENT OR PARENTS.

16 Sec. 802. Financial liability for services provided to an
17 individual by the department OR BY COMMUNITY MENTAL HEALTH SERV-
18 ICES PROGRAMS is hereby established ~~, and such financial liabil-~~
19 ~~ity shall be determined in accordance with the provisions of~~ AS
20 PROVIDED IN this chapter.

21 Sec. 804. (1) ~~The individual, the spouse, and the parents,~~
22 ~~as these terms are defined in section 800, shall be~~ A RESPONSI-
23 BLE PARTY IS financially liable for THE COST OF services provided
24 to the individual DIRECTLY BY OR by CONTRACT WITH the department
25 OR A COMMUNITY MENTAL HEALTH SERVICES PROGRAM.

26 (2) THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERVICES
27 PROGRAM SHALL CHARGE RESPONSIBLE PARTIES FOR THAT PORTION OF THE

1 FINANCIAL LIABILITY THAT IS NOT MET BY INSURANCE COVERAGE.

2 SUBJECT TO SECTION 814, THE AMOUNT OF THE CHARGE SHALL BE WHICH-
3 EVER OF THE FOLLOWING IS THE LEAST AMOUNT:

4 (A) ABILITY TO PAY DETERMINED UNDER SECTION 818 OR 819.

5 (B) COST OF SERVICES AS DEFINED IN SECTION 800.

6 (C) THE AMOUNT OF COINSURANCE AND DEDUCTIBLE IN ACCORDANCE
7 WITH THE TERMS OF PARTICIPATION WITH A PAYER OR PAYER GROUP.

8 (3) THE DEPARTMENT OR COMMUNITY MENTAL HEALTH SERVICES PRO-
9 GRAM SHALL WAIVE PAYMENT OF THAT PART OF A CHARGE DETERMINED
10 UNDER SUBSECTION (2) THAT EXCEEDS FINANCIAL LIABILITY. THE
11 DEPARTMENT OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL NOT
12 IMPOSE CHARGES IN EXCESS OF ABILITY TO PAY.

13 Sec. 806. (1) If the individual is single, ~~financial~~
14 ~~liability~~ INSURANCE COVERAGE AND ABILITY TO PAY shall first be
15 determined for the individual. If the INDIVIDUAL IS AN UNMARRIED
16 MINOR AND THE individual's ~~determined liability is~~ INSURANCE
17 COVERAGE AND ABILITY TO PAY ARE less than the cost of the serv-
18 ices, ~~financial liability~~ INSURANCE COVERAGE AND ABILITY TO PAY
19 shall be determined for the parents.

20 (2) If the individual is married, ~~financial liability~~
21 INSURANCE COVERAGE AND ABILITY TO PAY shall be determined jointly
22 for the individual and the spouse.

23 Sec. 808. The total combined ~~determined~~ FINANCIAL liabil-
24 ity of the ~~individual, the spouse, and the parents~~ RESPONSIBLE
25 PARTIES shall not exceed the cost of the services.

26 Sec. 810. ~~No person~~ AN INDIVIDUAL shall NOT be denied
27 services because of ~~an~~ THE inability OF RESPONSIBLE PARTIES to

1 pay for ~~such~~ THE services. ~~on the part of the individual, the~~
2 ~~spouse, or the parents.~~

3 Sec. 812. (1) ~~Whenever~~ IF an individual is covered, in
4 part or in whole, under any type of insurance ~~arrangement~~
5 COVERAGE, private or public, for services provided DIRECTLY by OR
6 BY CONTRACT WITH the department OR A COMMUNITY MENTAL HEALTH
7 SERVICES PROGRAM, the ~~proceeds~~ BENEFITS from ~~such~~ THAT insur-
8 ance ~~shall be~~ COVERAGE ARE considered ~~as part of~~ TO BE AVAIL-
9 ABLE TO PAY the individual's ~~ability to pay~~ FINANCIAL
10 LIABILITY, notwithstanding that the insurance contract was
11 entered into by a person other than the individual or notwith-
12 standing that the ~~premiums for such~~ insurance ~~were~~ COVERAGE
13 WAS paid for by a person other than the individual.

14 (2) INSURANCE COVERAGE IS CONSIDERED AVAILABLE TO PAY FOR
15 THE INDIVIDUAL'S FINANCIAL LIABILITY FOR SERVICES PROVIDED BY THE
16 DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR ITS
17 CONTRACTEE IN THE AMOUNT AND TO THE SAME EXTENT THAT COVERAGE
18 WOULD BE AVAILABLE TO COVER THE COST OF SERVICES IF THE INDIVID-
19 UAL HAD RECEIVED THE SERVICES FROM A HEALTH CARE PROVIDER OTHER
20 THAN THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERVICES PROGRAM
21 OR ITS CONTRACTEE.

22 SEC. 813. THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERV-
23 ICES PROGRAM SHALL BE SUBROGATED TO A RESPONSIBLE PARTY'S RIGHT
24 OF RECOVERY FOR INSURANCE BENEFITS FOR THE COST OF SERVICES TO
25 THE INDIVIDUAL.

26 Sec. 814. ~~Whenever the parents wilfully refuse to apply~~
27 ~~for insurance proceeds that cover, in part or in whole, the cost~~

~~1 of services provided to the individual, or other benefits to~~
~~2 which the individual may be entitled, the financial liability of~~
~~3 the parents shall be determined in the same manner as for the~~
~~4 individual, notwithstanding any other provision of this chapter.~~
5 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, IF A RESPON-
6 SIBLE PARTY FAILS TO PROVIDE RELEVANT INSURANCE COVERAGE INFORMA-
7 TION TO THE DEPARTMENT OR THE COMMUNITY MENTAL HEALTH SERVICES
8 PROGRAM, OR IF A RESPONSIBLE PARTY FAILS TO APPLY TO HAVE INSUR-
9 ANCE BENEFITS THAT COVER THE COST OF SERVICES PROVIDED TO THE
10 INDIVIDUAL PAID TO THE DEPARTMENT OR COMMUNITY MENTAL HEALTH
11 SERVICES PROGRAM, THE RESPONSIBLE PARTY'S ABILITY TO PAY SHALL BE
12 DETERMINED TO INCLUDE THE AMOUNT OF INSURANCE BENEFITS THAT WOULD
13 BE AVAILABLE. IF THE AMOUNT OF INSURANCE BENEFITS IS NOT KNOWN,
14 THE RESPONSIBLE PARTY'S ABILITY TO PAY SHALL BE DETERMINED TO BE
15 THE FULL COST OF SERVICES.

16 SEC. 817. (1) FOR AN INDIVIDUAL WHO RECEIVES INPATIENT OR
17 RESIDENTIAL SERVICES ON A VOLUNTARY OR INVOLUNTARY BASIS, THE
18 DEPARTMENT OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL
19 DETERMINE THE RESPONSIBLE PARTIES' INSURANCE COVERAGE AND ABILITY
20 TO PAY AS SOON AS PRACTICAL AFTER THE INDIVIDUAL IS ADMITTED.

21 (2) FOR AN INDIVIDUAL WHO RECEIVES NONRESIDENTIAL SERVICES,
22 THE DEPARTMENT OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL
23 DETERMINE THE RESPONSIBLE PARTIES' INSURANCE COVERAGE AND ABILITY
24 TO PAY BEFORE, OR AS SOON AS PRACTICAL AFTER, THE START OF
25 SERVICES.

26 Sec. 818. ~~For services provided to an individual who is a~~
27 ~~resident in a facility, the following provisions shall apply.~~

1 ~~(a) The determination of financial liability shall be made~~
2 ~~by the department, subsequent to the admission of the individual,~~
3 ~~by any form of admission, to a facility of the department.~~

4 ~~(b) The determination of financial liability shall be based~~
5 ~~on ability to pay. There shall be one procedure for determining~~
6 ~~the individual's or the individual's and spouse's joint ability~~
7 ~~to pay and another procedure for determining the parents' ability~~
8 ~~to pay.~~

9 ~~(c) A single individual's ability to pay shall be determined~~
10 ~~from a consideration of his or her total financial situation.~~
11 ~~That consideration shall include, but need not be limited to, the~~
12 ~~following factors: income, expenses, insurance proceeds, and~~
13 ~~number and condition of dependents, assets, and liabilities.~~

14 ~~(d) A married individual's and the spouse's joint ability to~~
15 ~~pay shall be determined from a consideration of their total~~
16 ~~financial situation. That consideration shall include, but need~~
17 ~~not be limited to, the following factors: income, expenses,~~
18 ~~insurance proceeds, and number and condition of dependents,~~
19 ~~assets, and liabilities.~~

20 ~~(e) A spouse shall not be financially liable for more than~~
21 ~~730 days of services during the individual's lifetime. Upon~~
22 ~~expiration of the spouse's liability, liability shall continue to~~
23 ~~apply to the individual.~~

24 ~~(f) The parents' ability to pay shall be determined on the~~
25 ~~basis of their income, and in the following manner:~~

26 ~~(i) Income shall mean the income subject to tax as set forth~~
27 ~~in the parents' most recently filed state income tax return.~~

1 ~~(ii) If a state income tax return has not been filed by the~~
2 ~~parents, the department shall determine the parents' income from~~
3 ~~whatever financial documents are legally available to the depart-~~
4 ~~ment, and the concept of income shall be the same as in subpara-~~
5 ~~graph (i).~~

6 ~~(iii) Ability to pay shall be determined from income in~~
7 ~~accordance with the following schedule:~~

8 —

		Monthly	Yearly
	Income	Financial	Financial
	Subject to Tax	Liability	Liability
	\$ 0 to 7,999	\$ 0	\$ 0
	8,000 to 8,499	5	60
	8,500 to 8,999	10	120
	9,000 to 9,499	15	180
	9,500 to 9,999	20	240
	10,000 to 10,499	25	300
	10,500 to 10,999	30	360
	11,000 to 11,499	35	420
	11,500 to 11,999	40	480
	12,000 to 12,499	45	540
	12,500 to 12,999	50	600
	13,000 to 13,499	55	660
	13,500 to 13,999	60	720
	14,000 to 14,499	65	780
	14,500 to 14,999	70	840
	15,000 to 15,499	75	900
	15,500 to 15,999	80	960
	16,000 to 16,499	85	1,020
	16,500 to 16,999	90	1,080
	17,000 to 17,499	95	1,140
	17,500 to 17,999	100	1,200
	18,000 to 18,499	105	1,260
	18,500 to 18,999	110	1,320
	19,000 to 19,499	115	1,380
	19,500 to 19,999	120	1,440
	20,000 to 20,499	125	1,500
	20,500 to 20,999	130	1,560
	21,000 to 21,499	135	1,620
	21,500 to 21,999	140	1,680
	22,000 to 22,499	145	1,740
	22,500 to 22,999	150	1,800
	23,000 to 23,499	155	1,860
	23,500 to 23,999	160	1,920
	24,000 to 24,499	165	1,980
	24,500 to 24,999	170	2,040
	25,000 to 25,499	175	2,100
	25,500 to 25,999	180	2,160
	26,000 to 26,499	185	2,220
	26,500 to 26,999	190	2,280
	27,000 to 27,499	195	2,340
	27,500 and over	.73% of income, but not to exceed cost of services.	8.73% of income, but not to exceed cost of services.
	(iv) The parents' financial liability for a full month of		
	services provided to an individual, or any part of a month, shall		

1 ~~be the amount specified as the monthly financial liability in~~
2 ~~subparagraph (iii).~~

3 ~~(v) The parents' financial liability for respite care serv-~~
4 ~~ices provided to an individual shall be set at a daily rate of~~
5 ~~+ /30 of the amount specified as the monthly financial liability~~
6 ~~in subparagraph (iii).~~

7 ~~(vi) Parents shall not be liable for more than 1 individual~~
8 ~~at any 1 time, and the parents' total period of liability for 2~~
9 ~~or more individuals shall not exceed 18 years.~~

10 ~~(vii) If the parents are members of the same household and~~
11 ~~they file separate tax returns, their separate incomes shall be~~
12 ~~added together to determine financial liability.~~

13 ~~(viii) If the parents are not members of the same household~~
14 ~~and they file separate tax returns, the financial liability of~~
15 ~~each parent shall be determined separately. If the combined~~
16 ~~liability of the parents thus determined exceeds the maximum~~
17 ~~financial liability specified in the subparagraph (iii) schedule,~~
18 ~~each parent shall be liable for the percentage of the maximum~~
19 ~~financial liability that is equal to his or her percentage of the~~
20 ~~combined liability previously determined. However, if either~~
21 ~~parent has been determined to be liable for medical and hospital~~
22 ~~expenses by a divorce judgment, that parent shall be liable for~~
23 ~~the total amount if his or her income is equal to or exceeds the~~
24 ~~maximum amount specified in subparagraph (iii).~~

25 ~~(ix) The department shall annually redetermine the parents'~~
26 ~~financial liability on the basis of the parents' most recently~~
27 ~~filed state income tax return.~~

1 ~~(x) Every 4 years, the department shall reexamine the~~
2 ~~schedule contained in subparagraph (iii) and shall submit to the~~
3 ~~legislature any recommendations for change that the department~~
4 ~~considers justified and appropriate.~~

5 (1) THE DEPARTMENT AND COMMUNITY MENTAL HEALTH SERVICES PRO-
6 GRAMS SHALL DETERMINE AN ADULT RESPONSIBLE PARTY'S ABILITY TO PAY
7 FOR ADULT INPATIENT PSYCHIATRIC SERVICES OF LESS THAN 61 DAYS,
8 ALL NONRESIDENTIAL SERVICES, AND ALL SERVICES TO MINORS, ON THE
9 BASIS OF THE ADULT RESPONSIBLE PARTY'S INCOME IN ACCORDANCE WITH
10 ALL OF THE FOLLOWING:

11 (A) THE DEPARTMENT OR COMMUNITY MENTAL HEALTH SERVICES PRO-
12 GRAM SHALL CONSIDER THE ADULT RESPONSIBLE PARTY'S INCOME TO BE
13 TAXABLE INCOME AS SET FORTH IN THE ADULT RESPONSIBLE PARTY'S MOST
14 RECENTLY FILED STATE INCOME TAX RETURN. IF THE PARENTS OF AN
15 INDIVIDUAL, OR THE INDIVIDUAL AND SPOUSE, ARE MEMBERS OF THE SAME
16 HOUSEHOLD BUT FILE SEPARATE INCOME TAX RETURNS, THE DEPARTMENT OR
17 COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL ADD TOGETHER THE
18 SEPARATE TAXABLE INCOMES TO DETERMINE THE ABILITY TO PAY. IF THE
19 PARENTS OR THE INDIVIDUAL AND SPOUSE ARE NOT MEMBERS OF THE SAME
20 HOUSEHOLD AND THEY FILE SEPARATE TAX RETURNS, THE ABILITY TO PAY
21 OF EACH PARENT OR OF THE INDIVIDUAL AND HIS OR HER SPOUSE SHALL
22 BE DETERMINED SEPARATELY.

23 (B) IF AN ADULT RESPONSIBLE PARTY HAS NOT FILED A STATE
24 INCOME TAX RETURN, THE DEPARTMENT OR COMMUNITY MENTAL HEALTH
25 SERVICES PROGRAM SHALL DETERMINE THE ADULT RESPONSIBLE PARTY'S
26 INCOME FROM THOSE FINANCIAL DOCUMENTS THAT ARE LEGALLY AVAILABLE,

1 BASED ON THE SAME FACTORS THAT DETERMINE TAXABLE INCOME UNDER
2 SUBDIVISION (A).

3 (C) RELYING UPON AN ADULT RESPONSIBLE PARTY'S INCOME AS
4 DETERMINED UNDER SUBDIVISION (A) OR (B), THE DEPARTMENT AND COM-
5 MUNITY MENTAL HEALTH SERVICES PROGRAMS SHALL DETERMINE ABILITY TO
6 PAY BASED ON AN ABILITY TO PAY SCHEDULE DEVELOPED UNDER SUBSEC-
7 TION (2).

8 (D) AN ADULT RESPONSIBLE PARTY'S ABILITY TO PAY FOR A CALEN-
9 DAR MONTH OR ANY PART OF A CALENDAR MONTH IS THE AMOUNT SPECIFIED
10 AS THE MONTHLY AMOUNT IN THE APPLICABLE ABILITY TO PAY SCHEDULE.

11 (E) A PARENT'S ABILITY TO PAY FOR RESPITE CARE SERVICES PRO-
12 VIDED WITH RESPECT TO AN INDIVIDUAL IS A DAILY RATE OF 1/30 OF
13 THE MONTHLY AMOUNT SPECIFIED IN THE APPLICABLE ABILITY TO PAY
14 SCHEDULE.

15 (F) A PARENT SHALL NOT BE DETERMINED TO HAVE AN ABILITY TO
16 PAY FOR MORE THAN 1 INDIVIDUAL AT ANY 1 TIME, AND A PARENT'S
17 TOTAL LIABILITY FOR 2 OR MORE INDIVIDUALS SHALL NOT EXCEED 18
18 YEARS.

19 (G) IF EITHER PARENT OR EITHER SPOUSE HAS BEEN MADE SOLELY
20 RESPONSIBLE FOR AN INDIVIDUAL'S MEDICAL AND HOSPITAL EXPENSES BY
21 A COURT ORDER, THE OTHER PARENT OR SPOUSE SHALL BE DETERMINED TO
22 HAVE NO ABILITY TO PAY. THE ABILITY TO PAY OF THE PARENT OR
23 SPOUSE MADE SOLELY RESPONSIBLE BY COURT ORDER SHALL BE DETERMINED
24 IN ACCORDANCE WITH THIS SECTION. THE ABILITY TO PAY OF A PARENT
25 MADE SOLELY RESPONSIBLE BY COURT ORDER SHALL BE REDUCED BY THE
26 AMOUNT OF CHILD SUPPORT THE PARENT PAYS FOR THE INDIVIDUAL.

1 (H) IF AN INDIVIDUAL RECEIVES SERVICES FOR MORE THAN 1 YEAR,
2 THE DEPARTMENT OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL
3 ANNUALLY REDETERMINE THE ADULT RESPONSIBLE PARTIES' ABILITY TO
4 PAY ON THE BASIS OF THE MOST RECENTLY FILED STATE INCOME TAX
5 RETURN OR AS PROVIDED IN SUBDIVISION (B).

6 (2) THE DEPARTMENT SHALL DEVELOP AND EACH COMMUNITY MENTAL
7 HEALTH SERVICES PROGRAM SHALL DEVELOP OR ADOPT AN ABILITY TO PAY
8 SCHEDULE THAT IS FAIR AND EQUITABLE. A COMMUNITY MENTAL HEALTH
9 SERVICES PROGRAM MAY EITHER ADOPT THE DEPARTMENT'S SCHEDULE OR
10 DEVELOP ITS OWN. A SCHEDULE DEVELOPED BY A COMMUNITY MENTAL
11 HEALTH SERVICES PROGRAM MAY TAKE INTO CONSIDERATION GEOGRAPHIC
12 COST OF LIVING DIFFERENCES AND MAY ESTABLISH NOMINAL CHARGES FOR
13 CERTAIN SERVICES. THE DEPARTMENT AND COMMUNITY MENTAL HEALTH
14 SERVICES PROGRAMS SHALL REVIEW THEIR RESPECTIVE ABILITY TO PAY
15 SCHEDULES AT LEAST EVERY 3 YEARS AND SHALL UPDATE THE RESPECTIVE
16 SCHEDULES AS NECESSARY.

17 SEC. 819. (1) THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH
18 SERVICES PROGRAM SHALL DETERMINE AN ADULT RESPONSIBLE PARTY'S
19 ABILITY TO PAY FOR RESIDENTIAL SERVICES AND INPATIENT SERVICES
20 OTHER THAN PSYCHIATRIC INPATIENT SERVICES OF LESS THAN 61 DAYS BY
21 TAKING INTO CONSIDERATION THE ADULT RESPONSIBLE PARTY'S TOTAL
22 FINANCIAL CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, INCOME,
23 EXPENSES, NUMBER AND CONDITION OF DEPENDENTS, ASSETS, AND
24 LIABILITIES.

25 (2) THE DEPARTMENT AND COMMUNITY MENTAL HEALTH SERVICES PRO-
26 GRAMS SHALL DETERMINE A MINOR'S ABILITY TO PAY FOR THE COST OF
27 SERVICES BY CONSIDERING THE MINOR'S TOTAL FINANCIAL

1 CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, INCOME, EXPENSES,
2 NUMBER AND CONDITION OF DEPENDENTS, ASSETS, AND LIABILITIES.

3 Sec. 820. ~~For services provided to an individual who is~~
4 ~~not a resident in a facility, the following provisions shall~~
5 ~~apply:~~

6 ~~(a) The determination of financial liability shall be made~~
7 ~~by the department.~~

8 ~~(b) The determination of financial liability shall be based~~
9 ~~on ability to pay.~~

10 ~~(c) A single individual's ability to pay, or a married~~
11 ~~individual's and spouse's joint ability to pay, or the parents'~~
12 ~~ability to pay shall be determined from a consideration of his or~~
13 ~~their total financial situation. Such consideration shall~~
14 ~~include, but need not be limited to, the following factors:~~
15 ~~income, expenses, insurance proceeds, number and condition of~~
16 ~~dependents, assets, and liabilities.~~

17 ~~(d) The financial liability of parents for one or more indi-~~
18 ~~viduals during any one year period shall not exceed an amount~~
19 ~~equal to 1/2 of the annual financial liability of the highest~~
20 ~~level of income specified in the schedule contained in section~~
21 ~~818(f) (iii).~~

22 ~~(e) The total lifetime financial liability of parents for 2~~
23 ~~or more individuals shall not exceed an amount equal to 18 multi-~~
24 ~~plied by the amount specified in subdivision (d). EXCEPT WITH~~
25 ~~RESPECT TO INPATIENT PSYCHIATRIC SERVICES OF LESS THAN 61 DAYS,~~
26 ~~THE DEPARTMENT OR A COMMUNITY MENTAL HEALTH SERVICES PROGRAM~~
27 ~~SHALL DETERMINE A SPOUSE'S ABILITY TO PAY FOR THE FIRST 730 DAYS~~

1 OF INPATIENT OR RESIDENTIAL SERVICES DURING THE INDIVIDUAL'S
2 LIFETIME. AFTER THE FIRST 730 DAYS, THE DEPARTMENT OR COMMUNITY
3 MENTAL HEALTH SERVICES PROGRAM SHALL DETERMINE ABILITY TO PAY
4 SOLELY FOR THE INDIVIDUAL.

5 Sec. 822. ~~The individual, spouse, or parents, where~~
6 ~~appropriate,~~ ALL RESPONSIBLE PARTIES shall make available to the
7 department any relevant ~~or pertinent~~ financial information ~~7~~
8 ~~which~~ THAT the department is not prohibited by law from seeking
9 and obtaining, and ~~which~~ THAT the department ~~deems~~ CONSIDERS
10 essential for the purpose of determining ability to pay. ~~Wilful~~
11 ~~failure~~ FAILURE to provide ~~such~~ THE relevant ~~or pertinent~~
12 financial information may result in a determination of ability to
13 pay up to the full cost of services received ~~for~~ BY the
14 individual. ~~and the spouse and up to the maximum financial~~
15 ~~liability specified in this chapter for parents.~~

16 Sec. 824. ~~No determination of ability to pay that is made~~
17 ~~by the department shall impose an undue financial burden on the~~
18 ~~individual or his family.~~ THE DEPARTMENT OR A COMMUNITY MENTAL
19 HEALTH SERVICES PROGRAM SHALL NOT MAKE A DETERMINATION OF ABILITY
20 TO PAY THAT IMPOSES AN UNDUE FINANCIAL BURDEN ON THE INDIVIDUAL
21 OR HIS OR HER FAMILY.

22 Sec. 828. The department OR COMMUNITY MENTAL HEALTH SERV-
23 ICES PROGRAM shall ~~at appropriate intervals review each~~
24 ANNUALLY DETERMINE THE INSURANCE COVERAGE AND ABILITY TO PAY OF
25 EACH INDIVIDUAL WHO CONTINUES TO RECEIVE SERVICES AND OF EACH
26 ADDITIONAL RESPONSIBLE PARTY, IF APPLICABLE. THE DEPARTMENT OR
27 COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL ALSO COMPLETE A

1 NEW determination of INSURANCE COVERAGE AND ability to pay ~~, and~~
2 ~~where there has been~~ IF INFORMED OF a significant change in a
3 ~~person's~~ RESPONSIBLE PARTY'S ability to pay. ~~, a new determi-~~
4 ~~nation shall be made.~~

5 Sec. 830. The department AND COMMUNITY MENTAL HEALTH SERV-
6 ICES PROGRAMS shall inform ~~the individual, spouse, or parents,~~
7 ~~except the parents of an individual who is a resident in a~~
8 ~~facility,~~ RESPONSIBLE PARTIES that ~~whenever his or~~ IF their
9 ability to pay has undergone a change, ~~he or~~ they may request
10 the department OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM to
11 make a new determination of ability to pay, and the department OR
12 COMMUNITY MENTAL HEALTH SERVICES PROGRAM shall be required to do
13 so. The new determination of ability to pay shall be made in
14 accordance with ~~the previous provisions of~~ this chapter.

15 Sec. 832. The department AND COMMUNITY MENTAL HEALTH SERV-
16 ICES PROGRAMS shall inform ~~the parents of an individual who is a~~
17 ~~resident in a facility~~ RESPONSIBLE PARTIES WHOSE ABILITY TO PAY
18 WAS DETERMINED UNDER SECTION 818 that ~~whenever~~ IF they believe
19 that the income figure being utilized to determine their ability
20 to pay is not appropriate to their current income status or does
21 not appropriately reflect their ability to pay, they may request
22 the department OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM to
23 make a new determination of ability to pay, and the department OR
24 COMMUNITY MENTAL HEALTH SERVICES PROGRAM shall be required to do
25 so. If ~~the parents have~~ A RESPONSIBLE PARTY HAS stated that
26 the income figure being utilized is not appropriate to ~~their~~
27 HIS OR HER current income status, the department OR COMMUNITY

1 MENTAL HEALTH SERVICES PROGRAM shall make a new determination of
 2 ability to pay ~~that shall be~~ based on the ~~parents'~~
 3 RESPONSIBLE PARTY'S current annualized MICHIGAN TAXABLE income.
 4 ~~subject to state tax in accordance with the schedule contained~~
 5 ~~in section 818(f) (iii).~~ IF THIS IS NOT AVAILABLE, OTHER DOCU-
 6 MENTATION OF INCOME AS DESCRIBED IN SECTION 818(1)(B) SHALL BE
 7 USED. If ~~the parents have~~ A RESPONSIBLE PARTY HAS stated that
 8 the income figure being utilized does not appropriately reflect
 9 ~~their~~ HIS OR HER ability to pay, the department OR COMMUNITY
 10 MENTAL HEALTH SERVICES PROGRAM shall make a new determination of
 11 ability to pay ~~that shall be~~ based on a consideration of the
 12 ~~parents'~~ RESPONSIBLE PARTY'S total financial situation ~~which~~
 13 ~~shall include, but need not be limited to, the following~~
 14 ~~factors: income expenses, number and condition of dependents,~~
 15 ~~assets, and liabilities~~ AS DESCRIBED IN SECTION 819. In neither
 16 instance, however, shall the new determination of ability to pay
 17 be for an amount greater than the original determination.

18 Sec. 834. The department OR COMMUNITY MENTAL HEALTH SERV-
 19 ICES PROGRAM shall inform the ~~individual, spouse, or parents, as~~
 20 ~~is appropriate,~~ RESPONSIBLE PARTIES that ~~he or~~ they have a
 21 right, by means of an administrative hearing, to contest ~~a~~ AN
 22 ABILITY TO PAY determination ~~of financial liability~~ that has
 23 been made by the department OR COMMUNITY MENTAL HEALTH SERVICES
 24 PROGRAM. If the ~~person~~ RESPONSIBLE PARTY desires ~~such~~ an
 25 administrative hearing, the following procedures ~~shall~~ apply:

26 (a) The ~~person~~ RESPONSIBLE PARTY shall notify the
 27 department OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM in writing

1 or on a form provided by the department OR COMMUNITY MENTAL
2 HEALTH SERVICES PROGRAM.

3 (b) An administrative hearing shall be held and the depart-
4 ment OR COMMUNITY MENTAL HEALTH SERVICES PROGRAM shall make a
5 redetermination of ~~financial liability pursuant to Act No. 386~~
6 ~~of the Public Acts of 1969, as amended~~ ABILITY TO PAY.

7 (c) A redetermination of ~~financial liability~~ ABILITY TO
8 PAY pursuant to subdivision (b) shall be made in accordance with
9 ~~the previous provisions of~~ this chapter.

10 Sec. 836. ~~The individual, spouse, or parents, as is~~
11 ~~appropriate,~~ A RESPONSIBLE PARTY may appeal a redetermination of
12 ~~financial liability~~ ABILITY TO PAY made ~~pursuant to~~ UNDER
13 section 834(b) to the probate court of the county ~~of~~ IN which
14 he or ~~they are residents~~ SHE RESIDES.

15 Sec. 838. ~~The individual, spouse, or parents shall be~~
16 ~~legally liable only for the amounts that it had been previously~~
17 ~~established they had the ability to pay.~~ IF THE DEPARTMENT OR A
18 COMMUNITY MENTAL HEALTH SERVICES PROGRAM REDETERMINES A RESPONSI-
19 BLE PARTY'S ABILITY TO PAY AND THE AMOUNT THE RESPONSIBLE PARTY
20 IS DETERMINED TO BE ABLE TO PAY IS HIGHER THAN THE AMOUNT UNDER
21 PREVIOUS DETERMINATIONS, THE DEPARTMENT OR COMMUNITY MENTAL
22 HEALTH SERVICES PROGRAM SHALL CHARGE THE HIGHER AMOUNT ONLY FOR
23 FINANCIAL LIABILITY THAT IS INCURRED AFTER THE DATE OF THE
24 REDETERMINATION.

25 Sec. 844. For the purpose of achieving reasonable unifor-
26 mity between financial liability for services provided by the
27 department and financial liability for services provided by

1 ~~county~~ community mental health SERVICES programs, the
2 department shall develop and promulgate rules ~~, pursuant to~~ IN
3 ACCORDANCE WITH Act No. 306 of the Public Acts of 1969 ~~, as~~
4 ~~amended,~~ establishing financial liability for services provided
5 by ~~county~~ OR UNDER CONTRACT WITH community mental health
6 SERVICES programs ~~which~~ THAT, to the extent that it is deter-
7 mined administratively practicable, shall be consistent with ~~the~~
8 ~~foregoing provisions of~~ this chapter.

9 SEC. 919. THE DEPARTMENT SHALL SUPPORT TRAINING, STUDIES,
10 AND RESEARCH AS PART OF ITS OVERALL EFFORT TO PREVENT MENTAL DIS-
11 EASE AND PROMOTE MENTAL HEALTH.

12 Sec. 946. (1) If a ~~patient~~ RECIPIENT communicates to a
13 mental health ~~practitioner~~ PROFESSIONAL who is treating the
14 ~~patient~~ RECIPIENT a threat of physical violence against a rea-
15 sonably identifiable third person and the ~~patient~~ RECIPIENT has
16 the apparent intent and ability to carry out that threat in the
17 foreseeable future, the mental health ~~practitioner~~ PROFESSIONAL
18 has a duty to take action as prescribed in subsection (2).

19 Except as provided in this section, a mental health
20 ~~practitioner~~ PROFESSIONAL does not have a duty to warn a third
21 person of a threat as described in this subsection or to protect
22 the third person.

23 (2) A mental health ~~practitioner~~ PROFESSIONAL has dis-
24 charged the duty created under subsection (1) if the mental
25 health ~~practitioner~~ PROFESSIONAL, subsequent to the threat,
26 does 1 or more of the following in a timely manner:

1 (a) Hospitalizes the ~~patient~~ RECIPIENT or initiates
2 proceedings to hospitalize the ~~patient~~ RECIPIENT under chapter
3 4 or 4a.

4 (b) Makes a reasonable attempt to communicate the threat to
5 the third person and communicates the threat to the local police
6 department or county sheriff for the area where the third person
7 resides or for the area where the ~~patient~~ RECIPIENT resides, or
8 to the state police.

9 (c) If the mental health ~~practitioner~~ PROFESSIONAL has
10 reason to believe that the third person who is threatened is a
11 minor or is incompetent by other than age, takes the steps set
12 forth in subdivision (b) and communicates the threat to the
13 department of social services in the county where the minor
14 resides and to the third person's custodial parent, noncustodial
15 parent, or legal guardian, whoever is appropriate in the best
16 interests of the third person.

17 (3) If a ~~patient~~ RECIPIENT described in subsection (1) is
18 being treated through team treatment in a hospital, and if the
19 individual in charge of the ~~patient's~~ RECIPIENT'S treatment
20 decides to discharge the duty created in subsection (1) by a
21 means described in subsection (2)(b) or (c), the hospital shall
22 designate an individual to communicate the threat to the neces-
23 sary persons.

24 (4) A ~~psychiatrist or psychologist~~ MENTAL HEALTH
25 PROFESSIONAL who determines in good faith that a particular situ-
26 ation presents a duty under this section and who complies with
27 the duty does not violate section 750. A psychiatrist who

1 determines in good faith that a particular situation presents a
2 duty under this section and who complies with the duty does not
3 violate the physician-patient privilege established under
4 section 2157 of the revised judicature act of 1961, Act No. 236
5 of the Public Acts of 1961, being section 600.2157 of the
6 Michigan Compiled Laws. A PSYCHOLOGIST WHO DETERMINES IN GOOD
7 FAITH THAT A PARTICULAR SITUATION PRESENTS A DUTY UNDER THIS SEC-
8 TION AND WHO COMPLIES WITH THE DUTY DOES NOT VIOLATE SECTION
9 18237 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS
10 OF 1978, BEING SECTION 333.18237 OF THE MICHIGAN COMPILED LAWS. A
11 ~~psychiatric~~ CERTIFIED social worker, SOCIAL WORKER, OR SOCIAL
12 WORKER TECHNICIAN who determines in good faith that a particular
13 situation presents a duty under this section and who complies
14 with the duty does not violate section 1610 of the occupational
15 code, Act No. 299 of the Public Acts of 1980, being section
16 339.1610 of the Michigan Compiled Laws. A licensed professional
17 counselor who determines in good faith that a particular situa-
18 tion presents a duty under this section and who complies with the
19 duty does not violate section 18117 of the public health code,
20 Act No. 368 of the Public Acts of 1978, being section 333.18117
21 of the Michigan Compiled Laws. A marriage and family therapist
22 who determines in good faith that a particular situation presents
23 a duty under this section and who complies with the duty does not
24 violate section 1509 of the occupational code, Act No. 299 of the
25 Public Acts of 1980, being section 339.1509 of the Michigan
26 Compiled Laws.

~~(5) As used in this section:~~

~~(a) "Hospital" means a facility providing inpatient care and services for the observation, diagnosis, and active treatment of an individual with a medical, chronic, or rehabilitative condition requiring the daily direction or supervision of a psychiatrist.~~

~~(b) "Marriage and family therapist" means an individual licensed under article 15 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.1501 to 339.1511 of the Michigan Compiled Laws.~~

~~(c) "Mental health practitioner" means a psychiatrist, psychologist, licensed professional counselor, marriage and family therapist, or psychiatric social worker.~~

~~(d) "Licensed professional counselor" means an individual licensed under part 18 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.18101 to 333.18117 of the Michigan Compiled Laws.~~

~~(e) "Psychiatric social worker" means a certified social worker, social worker, or social work technician registered under article 16 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.1601 to 339.1610 of the Michigan Compiled Laws, who has successfully completed a psychiatric social service practicum.~~

~~(f) "Psychiatrist" means that term as defined in section 750.~~

~~(g) "Psychologist" means that term as defined in section 750.~~

1 (5) ~~(6)~~ This section does not affect a duty a mental
2 health practitioner may have under any other section of law.

3 Sec. 1001b. (1) "Place of detention" means a detention
4 facility operated by a political subdivision of the state.

5 (2) "Prisoner" means a person confined in a state correc-
6 tional facility, but does not include a person confined pursuant
7 to an order of a juvenile division of the probate court or a
8 person confined in a place of detention.

9 (3) "Protective environment" means an environment that sup-
10 ports mental health services in accordance with a prisoner's
11 individual plan of services.

12 ~~(4) "Psychologist" means that term as defined in section~~
13 ~~400.~~

14 (4) ~~(5)~~ "State correctional facility" means a facility
15 operated by the department of corrections for the purpose of
16 supervising and housing prisoners before parole or discharge.

17 Section 2. Sections 130, 132, 155, 162, 163, 164, 200, 209,
18 246, 300, 318, 400a, 402, 441, 442, 443, 444, 450, 491, 492, 493,
19 494, 495, 495a, 496, 497, 498r, 498s, 738, 816, 826, 840, 844,
20 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 934, 935, 936,
21 942, 950, 951, 952, and 953 of Act No. 258 of the Public Acts of
22 1974, being sections 330.1130, 330.1132, 330.1155, 330.1162,
23 330.1163, 330.1164, 330.1200, 330.1209, 330.1246, 330.1300,
24 330.1318, 330.1400a, 330.1402, 330.1441, 330.1442, 330.1443,
25 330.1444, 330.1450, 330.1491, 330.1492, 330.1493, 330.1494,
26 330.1495, 330.1495a, 330.1496, 330.1497, 330.1498r, 330.1498s,
27 330.1738, 330.1816, 330.1826, 330.1840, 330.1844, 330.1900,

1 330.1902, 330.1904, 330.1906, 330.1908, 330.1910, 330.1912,
2 330.1914, 330.1916, 330.1918, 330.1934, 330.1935, 330.1936,
3 330.1942, 330.1950, 330.1951, 330.1952, and 330.1953 of the
4 Michigan Compiled Laws, are repealed.