

HOUSE BILL No. 4374

March 3, 1999, Introduced by Reps. Baird, Brater, Dennis, Schauer, Schermesser, Martinez, LaForge and Jacobs and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 100a and 160 (MCL 330.1100a and 330.1160), section 100a as added by 1995 PA 290 and section 160 as added by 1983 PA 249.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (2) "Abuse" means nonaccidental physical or emotional harm
5 to a recipient, or sexual contact with or sexual penetration of a
6 recipient as those terms are defined in section 520a of the
7 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
8 ~~being section 750.520a of the Michigan Compiled Laws~~ 1931 PA
9 328, MCL 750.520A, that is committed by an employee or volunteer

1 of the department, a community mental health services program, or
2 a licensed hospital or an employee or volunteer of a service pro-
3 vider under contract with the department, community mental health
4 services program, or licensed hospital.

5 (3) "Adaptive skills" means skills in 1 or more of the fol-
6 lowing areas:

7 (a) Communication.

8 (b) Self-care.

9 (c) Home living.

10 (d) Social skills.

11 (e) Community use.

12 (f) Self-direction.

13 (g) Health and safety.

14 (h) Functional academics.

15 (i) Leisure.

16 (j) Work.

17 (4) "Adult foster care facility" means an adult foster care
18 facility licensed under the adult foster care facility licensing
19 act, ~~Act No. 218 of the Public Acts of 1979, being sections~~
20 ~~400.701 to 400.737 of the Michigan Compiled Laws~~ 1979 PA 218,
21 MCL 400.701 TO 400.737.

22 (5) "Applicant" means an individual or his or her legal rep-
23 resentative who makes a request for mental health services.

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

26 (7) "Board of commissioners" means a county board of
27 commissioners.

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

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

7 (10) "Child and adolescent psychiatrist" means 1 or more of
8 the following:

9 (a) A physician who has completed a residency program in
10 child and adolescent psychiatry approved by the accreditation
11 council for graduate medical education or the American osteo-
12 pathic association, or who has completed 12 months of child and
13 adolescent psychiatric rotation and is enrolled in an approved
14 residency program as described in this subsection.

15 (b) A psychiatrist employed by or under contract as a child
16 and adolescent psychiatrist with the department or a community
17 mental health services program on the effective date of the amen-
18 datory act that added this subdivision who has education and
19 clinical experience in the evaluation and treatment of children
20 or adolescents with serious emotional disturbance.

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

24 (11) "Children's diagnostic and treatment service" means a
25 program THAT IS operated by or under contract with a community
26 mental health services program, ~~which~~ THAT provides
27 examination, evaluation, and referrals for minors, including

1 emergency referrals, ~~which~~ THAT provides or facilitates
2 treatment for minors, and ~~which~~ THAT has been certified by the
3 department.

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

7 (13) "Community mental health organization" means a commu-
8 nity mental health services program that is organized under the
9 urban cooperation act of 1967, ~~Act No. 7 of the Public Acts of~~
10 ~~the Extra Session of 1967, being sections 124.501 to 124.512 of~~
11 ~~the Michigan Compiled Laws 1967 (EX SESS) PA 7, MCL 124.501 TO~~
12 124.512.

13 (14) "Community mental health services program" means a pro-
14 gram operated under chapter 2 as a county community mental health
15 agency, a community mental health authority, or a community
16 mental health organization.

17 (15) "Consent" means a written agreement executed by a
18 recipient, a minor recipient's parent, or a recipient's legal
19 representative with authority to execute a consent, or a verbal
20 agreement of a recipient that is witnessed and documented by an
21 individual other than the individual providing treatment.

22 (16) "County community mental health agency" means an offi-
23 cial county or multicounty agency created under section 210 that
24 operates as a community mental health services program and that
25 has not elected to become a community mental health authority
26 under section 205 or a community mental health organization under
27 ~~Act No. 7 of the Public Acts of the Extra Session of 1967~~ THE

1 URBAN COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501
2 TO 124.512

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

4 (a) An adult foster care facility.

5 (b) A nursing home licensed under article 17 of the public
6 health code, ~~Act No. 368 of the Public Acts of 1978, being sec-~~
7 ~~tions 333.20101 to 333.22260 of the Michigan Compiled Laws~~ 1978
8 PA 368, MCL 333.20101 TO 333.22260.

9 (c) A home for the aged licensed under article 17 of ~~Act~~
10 ~~No. 368 of the Public Acts of 1978~~ THE PUBLIC HEALTH CODE, 1978
11 PA 368, MCL 333.20101 TO 333.22260.

12 (18) "Department" means the department of ~~mental~~ COMMUNITY
13 health.

14 (19) "Developmental disability" means either of the
15 following:

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

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

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

22 (iii) Is likely to continue indefinitely.

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

25 (A) Self-care.

26 (B) Receptive and expressive language.

1 (C) Learning.

2 (D) Mobility.

3 (E) Self-direction.

4 (F) Capacity for independent living.

5 (G) Economic self-sufficiency.

6 (v) ~~Reflects~~ RESULTS IN the individual's need for a combi-
7 nation and sequence of special, interdisciplinary, or generic
8 care, treatment, or other services that are of lifelong or
9 extended duration and are individually planned and coordinated.

10 (b) If applied to a minor from birth to age 5, a substantial
11 developmental delay or a specific congenital or acquired condi-
12 tion with a high probability of resulting in developmental dis-
13 ability as defined in subdivision (a) if services are not
14 provided.

15 (20) "Director" means the director of the department of
16 ~~mental~~ COMMUNITY health or his or her designee.

17 (21) "Discharge" means an absolute, unconditional release of
18 an individual from a facility by action of the facility or a
19 court.

20 (22) "Eligible minor" means an individual less than 18 years
21 of age who is recommended in the written report of a multidisci-
22 plinary team under rules promulgated by the department of educa-
23 tion to be classified as 1 of the following:

24 (a) Severely mentally impaired.

25 (b) Severely multiply impaired.

26 (c) Autistic impaired and receiving special education
27 services. ~~in a program designed for the autistic impaired under~~

1 ~~subsection (1) of R 340.1758 of the Michigan administrative code~~
2 ~~or in a program designed for the severely mentally impaired or~~
3 ~~severely multiply impaired.~~

4 (D) EMOTIONALLY IMPAIRED AND DOCUMENTED BY THE MULTIDISCI-
5 PLINARY TEAM AND RECOMMENDED BY AN INDIVIDUALIZED EDUCATIONAL
6 PLANNING AND PLACEMENT COMMITTEE AS ELIGIBLE FOR SPECIAL EDUCA-
7 TION SERVICES AS EMOTIONALLY IMPAIRED UNDER THE SPECIAL EDUCATION
8 PROGRAMS AND SERVICES RULES, R 340.1701 TO 340.1873 OF THE
9 MICHIGAN ADMINISTRATIVE CODE, AND AS MEETING ALL OF THE FOLLOWING
10 CRITERIA:

11 (i) THE ELIGIBLE MINOR'S SCHOOL RECORD DOCUMENTS THAT THE
12 EMOTIONAL IMPAIRMENT HAS CONTINUED OR IS LIKELY TO CONTINUE FOR A
13 PERIOD OF AT LEAST 1 YEAR.

14 (ii) THE ELIGIBLE MINOR'S SCHOOL RECORD DOCUMENTS 5 OR MORE
15 OF THE FOLLOWING WITHIN THE PAST 3 YEARS:

16 (A) AN IDENTIFIED LEARNING PROBLEM.

17 (B) RESULTS OF A PROFESSIONALLY CONDUCTED BEHAVIORAL ASSESS-
18 MENT THAT DOCUMENTS SIGNIFICANT PROBLEMS WITH THE STUDENT'S
19 FUNCTIONING.

20 (C) RESULTS OF A PROFESSIONALLY CONDUCTED PERSONALITY
21 ASSESSMENT THAT DOCUMENTS SIGNIFICANT PROBLEMS WITH THE STUDENT'S
22 FUNCTIONING.

23 (D) REPEATED AGGRESSIVE BEHAVIOR TOWARD INDIVIDUALS AT
24 HOME.

25 (E) REPEATED AGGRESSIVE BEHAVIOR TOWARD INDIVIDUALS AT
26 SCHOOL.

1 (F) REPEATED SELF-INJURY AT HOME.

2 (G) REPEATED SELF-INJURY AT SCHOOL.

3 (H) REPEATED PROPERTY DESTRUCTION AT HOME.

4 (I) REPEATED PROPERTY DESTRUCTION AT SCHOOL.

5 (E) PHYSICALLY OR OTHERWISE HEALTH IMPAIRED AND 1 OF THE
6 FOLLOWING:

7 (i) HEARING IMPAIRED.

8 (ii) VISUALLY IMPAIRED.

9 (iii) USING 1 OR MORE OF THE FOLLOWING TECHNOLOGIES AS DOCU-
10 MENTED BY THE MULTIDISCIPLINARY TEAM:

11 (A) WHEELCHAIR OR COMPARABLE TECHNOLOGY.

12 (B) VENTILATOR OR COMPARABLE TECHNOLOGY.

13 (C) GASTROSTOMY OR COMPARABLE TECHNOLOGY.

14 (D) SUCTIONING OR POSTURAL DRAINAGE PROCEDURES OR COMPARABLE
15 TECHNOLOGY.

16 (E) PARENTERAL OR NASAL-GASTRIC FEEDING OR COMPARABLE
17 TECHNOLOGY.

18 (23) "Emergency situation" means a situation in which an
19 individual is experiencing a serious mental illness or a develop-
20 mental disability, or a child is experiencing a serious emotional
21 disturbance, and 1 of the following applies:

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

25 (b) The individual is unable to provide himself or herself
26 food, clothing, or shelter or to attend to basic physical
27 activities such as eating, toileting, bathing, grooming,

1 dressing, or ambulating, and this inability may lead in the near
2 future to harm to the individual or to another individual.

3 (c) The individual's judgment is so impaired that he or she
4 is unable to understand the need for treatment and, in the opin-
5 ion of the mental health professional, his or her continued
6 behavior as a result of the mental illness, developmental dis-
7 ability, or emotional disturbance can reasonably be expected in
8 the near future to result in physical harm to the individual or
9 to another individual.

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

13 Sec. 160. (1) Family support subsidy payments shall be paid
14 from accounts as appropriated by the legislature.

15 (2) ~~The~~ SUBJECT TO SUBSECTION (3), THE department, after
16 notifying the governor and the house and senate appropriations
17 committees, may adjust the amounts available for family support
18 subsidies by equal apportionment in the event available revenues
19 are insufficient to cover the obligations. The department shall
20 not reduce the amount of the monthly payment by more than an
21 aggregate of 25% in 1 fiscal year without written approval of the
22 house and senate appropriations committees.

23 (3) THE DEPARTMENT SHALL NOT AS A RESULT OF THE AMENDATORY
24 ACT THAT ADDED THIS SUBSECTION REDUCE THE AMOUNT OF THE FAMILY
25 SUPPORT SUBSIDY TO AN ELIGIBLE MINOR WHO IS ELIGIBLE FOR A FAMILY
26 SUPPORT SUBSIDY UNDER ELIGIBILITY CRITERIA IN EFFECT ON
27 SEPTEMBER 1, 1995.