

# HOUSE BILL No. 5826

April 9, 2002, Introduced by Reps. Raczkowski, George, Bernero, Vander Veen, Van Woerkom and Lemmons and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 100a and 161 (MCL 330.1100a and 330.1161),  
as amended by 1998 PA 497.

## 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, 1931 PA 328, MCL 750.520a, that is committed  
8       by an employee or volunteer of the department, a community mental  
9       health services program, or a licensed hospital or by an employee  
10      or volunteer of a service provider under contract with the

1 department, community mental health services program, or licensed  
2 hospital.

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

5 (a) Communication.

6 (b) Self-care.

7 (c) Home living.

8 (d) Social skills.

9 (e) Community use.

10 (f) Self-direction.

11 (g) Health and safety.

12 (h) Functional academics.

13 (i) Leisure.

14 (j) Work.

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

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

20 (6) "ASSISTED OUTPATIENT" MEANS AN INDIVIDUAL UNDER A COURT  
21 ORDER TO RECEIVE ASSISTED OUTPATIENT TREATMENT.

22 (7) "ASSISTED OUTPATIENT TREATMENT" OR "AOT" MEANS THE CATE-  
23 GORIES OF OUTPATIENT SERVICES ORDERED BY THE COURT UNDER CHAPTER  
24 3A. ASSISTED OUTPATIENT TREATMENT SHALL INCLUDE INTENSIVE CASE  
25 MANAGEMENT SERVICES OR ASSERTIVE COMMUNITY TREATMENT TEAM SERV-  
26 ICES TO PROVIDE CARE COORDINATION. ASSISTED OUTPATIENT TREATMENT  
27 MAY ALSO INCLUDE 1 OR MORE OF THE FOLLOWING CATEGORIES OF

1 SERVICES: MEDICATION; PERIODIC BLOOD TESTS OR URINALYSIS TO  
2 DETERMINE COMPLIANCE WITH PRESCRIBED MEDICATIONS; INDIVIDUAL OR  
3 GROUP THERAPY; DAY OR PARTIAL DAY PROGRAMMING ACTIVITIES; VOCA-  
4 TIONAL, EDUCATIONAL, OR SELF-HELP TRAINING OR ACTIVITIES; ALCOHOL  
5 OR SUBSTANCE ABUSE TREATMENT AND COUNSELING AND PERIODIC TESTS  
6 FOR THE PRESENCE OF ALCOHOL OR ILLEGAL DRUGS FOR AN INDIVIDUAL  
7 WITH A HISTORY OF ALCOHOL OR SUBSTANCE ABUSE; SUPERVISION OF  
8 LIVING ARRANGEMENTS; AND ANY OTHER SERVICES WITHIN A LOCAL OR  
9 UNIFIED SERVICES PLAN DEVELOPED UNDER THIS ACT WHICH SERVICES ARE  
10 PRESCRIBED TO TREAT THE INDIVIDUAL'S MENTAL ILLNESS AND TO ASSIST  
11 THE INDIVIDUAL IN LIVING AND FUNCTIONING IN THE COMMUNITY OR TO  
12 ATTEMPT TO PREVENT A RELAPSE OR DETERIORATION THAT MAY REASONABLY  
13 BE PREDICTED TO RESULT IN SUICIDE OR THE NEED FOR  
14 HOSPITALIZATION.

15 (8) "ASSISTED OUTPATIENT TREATMENT PROGRAM" MEANS THE SYSTEM  
16 TO ARRANGE FOR AND COORDINATE THE PROVISION OF ASSISTED OUTPA-  
17 TIENT TREATMENT, TO MONITOR TREATMENT COMPLIANCE BY ASSISTED OUT-  
18 PATIENTS, TO EVALUATE THE CONDITION OR NEEDS OF ASSISTED OUTPA-  
19 TIENTS, TO TAKE APPROPRIATE STEPS TO ADDRESS THE NEEDS OF  
20 ASSISTED OUTPATIENTS, AND TO ENSURE COMPLIANCE WITH COURT  
21 ORDERS.

22 (9) "ASSISTED OUTPATIENT TREATMENT PROGRAM DIRECTOR" MEANS  
23 AN INDIVIDUAL APPOINTED BY THE DIRECTOR OF A COMMUNITY MENTAL  
24 HEALTH SERVICES PROGRAM TO OPERATE, DIRECT, OR SUPERVISE AN  
25 ASSISTED OUTPATIENT TREATMENT PROGRAM OR, IF A COMMUNITY MENTAL  
26 HEALTH SERVICE PROGRAM DOES NOT EXIST IN THE COMMUNITY, AN  
27 ASSISTED OUTPATIENT TREATMENT PROGRAM REGIONAL COORDINATOR.

1           (10) "ASSISTED OUTPATIENT TREATMENT REGIONAL COORDINATOR"  
2 MEANS AN INDIVIDUAL APPOINTED BY THE DIRECTOR TO ACT AS A LIAISON  
3 BETWEEN THE DEPARTMENT AND LOCAL AOT PROGRAMS AND TO PERFORM CER-  
4 TAIN OTHER DUTIES AS PRESCRIBED BY THE DIRECTOR AND AS PRESCRIBED  
5 IN THIS CHAPTER.

6           (11) ~~-(6)-~~ "Board" means the governing body of a community  
7 mental health services program.

8           (12) ~~-(7)-~~ "Board of commissioners" means a county board of  
9 commissioners.

10          (13) ~~-(8)-~~ "Center" means a facility operated by the depart-  
11 ment to admit individuals with developmental disabilities and  
12 provide habilitation and treatment services.

13          (14) ~~-(9)-~~ "Certification" means formal approval of a pro-  
14 gram by the department in accordance with standards developed or  
15 approved by the department.

16          (15) ~~-(10)-~~ "Child abuse" and "child neglect" mean those  
17 terms as defined in section 2 of the child protection law, 1975  
18 PA 238, MCL 722.622.

19          (16) ~~-(11)-~~ "Child and adolescent psychiatrist" means 1 or  
20 more of the following:

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

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

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

9 (17) ~~-(12)-~~ "Children's diagnostic and treatment service"  
10 means a program operated by or under contract with a community  
11 mental health services program, that provides examination, evalu-  
12 ation, and referrals for minors, including emergency referrals,  
13 that provides or facilitates treatment for minors, and that has  
14 been certified by the department.

15 (18) ~~-(13)-~~ "Community mental health authority" means a sep-  
16 arate legal public governmental entity created under section 205  
17 to operate as a community mental health services program.

18 (19) ~~-(14)-~~ "Community mental health organization" means a  
19 community mental health services program that is organized under  
20 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,  
21 MCL 124.501 to 124.512.

22 (20) ~~-(15)-~~ "Community mental health services program" means  
23 a program operated under chapter 2 as a county community mental  
24 health agency, a community mental health authority, or a commu-  
25 nity mental health organization.

26 (21) ~~-(16)-~~ "Consent" means a written agreement executed by  
27 a recipient, a minor recipient's parent, or a recipient's legal

1 representative with authority to execute a consent, or a verbal  
2 agreement of a recipient that is witnessed and documented by an  
3 individual other than the individual providing treatment.

4 (22) ~~-(17)-~~ "County community mental health agency" means an  
5 official county or multicounty agency created under section 210  
6 that operates as a community mental health services program and  
7 that has not elected to become a community mental health author-  
8 ity under section 205 or a community mental health organization  
9 under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,  
10 MCL 124.501 to 124.512.

11 (23) ~~-(18)-~~ "Dependent living setting" means all of the  
12 following:

13 (a) An adult foster care facility.

14 (b) A nursing home licensed under article 17 of the public  
15 health code, 1978 PA 368, MCL 333.20101 to 333.22260.

16 (c) A home for the aged licensed under article 17 of the  
17 public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

18 (24) ~~-(19)-~~ "Department" means the department of community  
19 health.

20 (25) ~~-(20)-~~ "Developmental disability" means either of the  
21 following:

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

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

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

(iii) Is likely to continue indefinitely.

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

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

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

(b) If applied to a minor from birth to ~~age~~ 5 YEARS OF AGE, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(26) ~~-(21)-~~ "Director" OR "DEPARTMENT DIRECTOR" means the director of the department or his or her designee.

(27) ~~-(22)-~~ "Discharge" means an absolute, unconditional release of an individual from a facility by action of the facility or a court.

(28) ~~-(23)-~~ "Eligible minor" means an individual less than 18 years of age who is recommended in the written report of a

1 multidisciplinary team under rules promulgated by the department  
2 of education to be classified as 1 of the following:

3 (a) Severely mentally impaired.

4 (b) Severely multiply impaired.

5 (c) Autistic impaired and receiving special education serv-  
6 ices in a program designed for the autistic impaired under  
7 subsection (1) of R 340.1758 of the Michigan administrative code  
8 or in a program designed for the severely mentally impaired or  
9 severely multiply impaired.

10 (29) ~~-(24)-~~ "Emergency situation" means a situation in which  
11 an individual is experiencing a serious mental illness or a  
12 developmental disability, or a ~~child~~ MINOR is experiencing a  
13 serious emotional disturbance, and 1 of the following applies:

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

17 (b) The individual is unable to provide himself or herself  
18 food, clothing, or shelter or to attend to basic physical activi-  
19 ties such as eating, toileting, bathing, grooming, dressing, or  
20 ambulating, and this inability may lead in the near future to  
21 harm to the individual or to another individual.

22 (c) The individual's judgment is so impaired that he or she  
23 is unable to understand the need for treatment and, in the opin-  
24 ion of the mental health professional, his or her continued  
25 behavior as a result of the mental illness, developmental dis-  
26 ability, or emotional disturbance can reasonably be expected in



1 the near future to result in physical harm to the individual or  
2 to another individual.

3 (30) ~~-(25)-~~ "Executive director" means an individual  
4 appointed under section 226 to direct a community mental health  
5 services program or his or her designee.

6 Sec. 161. In conjunction with community mental health serv-  
7 ices programs, the department shall conduct annually and forward  
8 to the governor and the house and senate appropriations commit-  
9 tees, and the senate and house committees with legislative over-  
10 sight of ~~-social-~~ HUMAN services and mental health, an evaluation  
11 of the family support subsidy program that shall include, but is  
12 not limited to, all of the following:

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

17 (b) Case reviews of families who voluntarily terminate par-  
18 ticipation in the family support subsidy program for any reason,  
19 particularly when the eligible minor is placed out of the family  
20 home, including the involvement of the department and community  
21 mental health services programs in offering suitable  
22 alternatives.

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

26 (d) The efforts to encourage program participation of  
27 eligible families.

1 (e) The geographic distribution of families receiving  
2 subsidy payments and, to the extent possible, eligible minors  
3 presumed to be eligible for family support subsidy payments.

4 (f) Programmatic and legislative recommendations to further  
5 assist families in providing care for eligible minors.

6 (g) Problems that arise in identifying eligible minors  
7 through diagnostic evaluations performed under rules promulgated  
8 by the department of education.

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

13 (i) Caseload figures by eligibility category as ~~defined~~  
14 DESCRIBED in section ~~100a(23)~~ 100A(28).

15 Enacting section 1. This amendatory act does not take  
16 effect unless all of the following bills of the 91st Legislature  
17 are enacted into law:

18 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5825 (request  
19 no. 00734'01).

20 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5827 (request  
21 no. 03917'01).