

SENATE BILL No. 871

September 24, 2009, Introduced by Senators CHERRY, BRATER, JACOBS, CLARK-COLEMAN, SCOTT, OLSHOVE, ANDERSON, SWITALSKI, BASHAM and THOMAS and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 401 (MCL 330.1401), as amended by 2004 PA 496.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) ~~An individual who has mental illness, and who as a result~~
4 ~~of that mental illness can reasonably be expected within the near~~
5 ~~future to intentionally or unintentionally seriously physically~~
6 ~~injure himself, herself, or another individual, and who has engaged~~
7 ~~in an act or acts or made significant threats that are~~
8 ~~substantially supportive of the expectation. AN INDIVIDUAL WHO HAS~~
9 ~~MENTAL ILLNESS, WHOSE JUDGMENT IS SO IMPAIRED THAT HE OR SHE IS~~
10 ~~UNABLE TO UNDERSTAND HIS OR HER NEED FOR TREATMENT, AND WHOSE~~

1 CONTINUED BEHAVIOR AS THE RESULT OF THIS MENTAL ILLNESS CAN
2 REASONABLY BE EXPECTED, ON THE BASIS OF COMPETENT CLINICAL OPINION,
3 TO RESULT IN SIGNIFICANT PHYSICAL HARM TO HIMSELF, HERSELF, OR
4 OTHERS. THIS INDIVIDUAL SHALL RECEIVE INVOLUNTARY MENTAL HEALTH
5 TREATMENT INITIALLY ONLY UNDER THE PROVISIONS OF SECTIONS 434
6 THROUGH 438.

7 (b) An individual who has mental illness, and who as a result
8 of that mental illness is unable to attend to those of his or her
9 basic physical needs such as food, clothing, or shelter that must
10 be attended to in order for the individual to avoid serious harm in
11 the near future, and who has demonstrated that inability by failing
12 to attend to those basic physical needs.

13 ~~(c) An individual who has mental illness, whose judgment is so~~
14 ~~impaired that he or she is unable to understand his or her need for~~
15 ~~treatment and whose continued behavior as the result of this mental~~
16 ~~illness can reasonably be expected, on the basis of competent~~
17 ~~clinical opinion, to result in significant physical harm to~~
18 ~~himself, herself, or others. This individual shall receive~~
19 ~~involuntary mental health treatment initially only under the~~
20 ~~provisions of sections 434 through 438. AN INDIVIDUAL WHO HAS~~
21 ~~MENTAL ILLNESS, AND WHO AS A RESULT OF THAT MENTAL ILLNESS CAN~~
22 ~~REASONABLY BE EXPECTED WITHIN THE NEAR FUTURE TO INTENTIONALLY OR~~
23 ~~UNINTENTIONALLY SERIOUSLY PHYSICALLY INJURE HIMSELF, HERSELF, OR~~
24 ~~ANOTHER INDIVIDUAL, AND WHO HAS ENGAGED IN AN ACT OR ACTS OR MADE~~
25 ~~SIGNIFICANT THREATS THAT ARE SUBSTANTIALLY SUPPORTIVE OF THE~~
26 ~~EXPECTATION.~~

27 (d) An individual who has mental illness, whose understanding

1 of the need for treatment is impaired to the point that he or she
2 is unlikely to participate in treatment voluntarily, who is
3 currently noncompliant with treatment that has been recommended by
4 a mental health, professional and that has been determined to be
5 necessary to prevent a relapse or harmful deterioration of his or
6 her condition and whose noncompliance with treatment has been a
7 factor in the individual's placement in a psychiatric hospital,
8 prison, or jail at least 2 times within the last 48 months or whose
9 noncompliance with treatment has been a factor in the individual's
10 committing 1 or more acts, attempts, or threats of serious violent
11 behavior within the last 48 months. An individual under this
12 subdivision is only eligible to receive assisted outpatient
13 treatment under section 433 or 469a.

14 **(2) THE COURT SHALL APPLY AND CONSIDER EACH OF THE CRITERIA IN**
15 **SUBSECTION (1) BEFORE DETERMINING AN INDIVIDUAL IS NOT A PERSON**
16 **REQUIRING TREATMENT.**

17 **(3) ~~(2)~~**—An individual whose mental processes have been
18 weakened or impaired by a dementia, an individual with a primary
19 diagnosis of epilepsy, or an individual with alcoholism or other
20 drug dependence is not a person requiring treatment under this
21 chapter unless the individual also meets the criteria specified in
22 subsection (1). An individual described in this subsection may be
23 hospitalized under the informal or formal voluntary hospitalization
24 provisions of this chapter if he or she is considered clinically
25 suitable for hospitalization by the hospital director.