

# HOUSE BILL No. 4674

June 2, 2015, Introduced by Rep. Leonard and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending sections 100a, 100c, 401, 404, 420, 422, 423, 425, 426,  
427, 429, 431, 434, 435, 438, 447, 448, 449, 451, 452, 454, 455,  
463, 468, 469a, 472a, 474, 474a, and 475 (MCL 330.1100a, 330.1100c,  
330.1401, 330.1404, 330.1420, 330.1422, 330.1423, 330.1425,  
330.1426, 330.1427, 330.1429, 330.1431, 330.1434, 330.1435,  
330.1438, 330.1447, 330.1448, 330.1449, 330.1451, 330.1452,  
330.1454, 330.1455, 330.1463, 330.1468, 330.1469a, 330.1472a,  
330.1474, 330.1474a, and 330.1475), section 100a as amended by 2012  
PA 500, section 100c as amended by 2014 PA 200, section 401 as  
amended by 2004 PA 496, sections 420, 423, 425, 426, 427, 429, 431,  
434, 435, 438, 448, 449, 451, 452, 454, 455, 463, and 468 as  
amended by 1995 PA 290, section 422 as amended by 2004 PA 317,  
section 469a as amended by 2004 PA 497, sections 472a and 475 as

amended by 2004 PA 498, and sections 474 and 474a as added by 1996 PA 588, and by adding section 400b; and to repeal acts and parts of acts.

**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 talents  
3 and acquired proficiencies.

4           (2) "Abuse" means nonaccidental physical or emotional harm to  
5 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  
11 department, community mental health services program, or licensed  
12 hospital.

13           (3) "Adaptive skills" means skills in 1 or more of the  
14 following areas:

- 15           (a) Communication.  
16           (b) Self-care.  
17           (c) Home living.  
18           (d) Social skills.  
19           (e) Community use.  
20           (f) Self-direction.  
21           (g) Health and safety.  
22           (h) Functional academics.  
23           (i) Leisure.

1 (j) Work.

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

5 (5) "Alcohol and drug abuse counseling" means the act of  
6 counseling, modification of substance use disorder related  
7 behavior, and prevention techniques for individuals with substance  
8 use disorder, their significant others, and individuals who could  
9 potentially develop a substance use disorder.

10 (6) "Applicant" means an individual or his or her legal  
11 representative who makes a request for mental health services.

12 (7) "Approved service program" means a substance use disorder  
13 services program licensed under part 62 of the public health code,  
14 1978 PA 368, MCL 333.6230 to 333.6251, to provide substance use  
15 disorder treatment and rehabilitation services by the department-  
16 designated community mental health entity and approved by the  
17 federal government to deliver a service or combination of services  
18 for the treatment of incapacitated individuals.

19 (8) "Assisted outpatient treatment" or "AOT" means the  
20 categories of outpatient services ordered by the court under  
21 section ~~433-468~~ or 469a. Assisted outpatient treatment ~~includes~~ **MAY**  
22 **INCLUDE** case management services to provide care coordination.  
23 Assisted outpatient treatment may also include 1 or more of the  
24 following categories of services: medication; periodic blood tests  
25 or urinalysis to determine compliance with prescribed medications;  
26 individual or group therapy; day or partial day programming  
27 activities; vocational, educational, or self-help training or

1 activities; assertive community treatment team services; alcohol or  
2 substance use disorder treatment and counseling and periodic tests  
3 for the presence of alcohol or illegal drugs for an individual with  
4 a history of alcohol abuse or substance use disorder; supervision  
5 of living arrangements; and any other services within a local or  
6 unified services plan developed under this act that are prescribed  
7 to treat the individual's mental illness and to assist the  
8 individual in living and functioning in the community or to attempt  
9 to prevent a relapse or deterioration that may reasonably be  
10 predicted to result in suicide, the need for hospitalization, or  
11 serious violent behavior. The medical review and direction included  
12 in an assisted outpatient treatment plan shall be provided under  
13 the supervision of a psychiatrist.

14 (9) "Board" means the governing body of a community mental  
15 health services program.

16 (10) "Board of commissioners" means a county board of  
17 commissioners.

18 (11) "Center" means a facility operated by the department to  
19 admit individuals with developmental disabilities and provide  
20 habilitation and treatment services.

21 (12) "Certification" means formal approval of a program by the  
22 department in accordance with standards developed or approved by  
23 the department.

24 (13) "Child abuse" and "child neglect" mean those terms as  
25 defined in section 2 of the child protection law, 1975 PA 238, MCL  
26 722.622.

27 (14) "Child and adolescent psychiatrist" means 1 or more of

1 the following:

2 (a) A physician who has completed a residency program in child  
3 and adolescent psychiatry approved by the ~~accreditation council for~~  
4 ~~graduate medical education~~ **ACCREDITATION COUNCIL FOR GRADUATE**  
5 **MEDICAL EDUCATION** or the American ~~osteopathic association,~~  
6 **OSTEOPATHIC ASSOCIATION**, or who has completed 12 months of child  
7 and adolescent psychiatric rotation and is enrolled in an approved  
8 residency program as described in this subsection.

9 (b) A psychiatrist employed by or under contract as a child  
10 and adolescent psychiatrist with the department or a community  
11 mental health services program on March 28, 1996, who has education  
12 and clinical experience in the evaluation and treatment of children  
13 or adolescents with serious emotional disturbance.

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

17 (15) "Children's diagnostic and treatment service" means a  
18 program operated by or under contract with a community mental  
19 health services program, that provides examination, evaluation, and  
20 referrals for minors, including emergency referrals, that provides  
21 or facilitates treatment for minors, and that has been certified by  
22 the department.

23 (16) "Community mental health authority" means a separate  
24 legal public governmental entity created under section 205 to  
25 operate as a community mental health services program.

26 (17) "Community mental health organization" means a community  
27 mental health services program that is organized under the urban

1 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to  
2 124.512.

3 (18) "Community mental health services program" means a  
4 program operated under chapter 2 as a county community mental  
5 health agency, a community mental health authority, or a community  
6 mental health organization.

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

12 (20) "County community mental health agency" means an official  
13 county or multicounty agency created under section 210 that  
14 operates as a community mental health services program and that has  
15 not elected to become a community mental health authority or a  
16 community mental health organization.

17 (21) "Department" means the department of ~~community~~ health **AND**  
18 **HUMAN SERVICES.**

19 (22) "Department-designated community mental health entity"  
20 means the community mental health authority, community mental  
21 health organization, community mental health services program,  
22 county community mental health agency, or community mental health  
23 regional entity designated by the department to represent a region  
24 of community mental health authorities, community mental health  
25 organizations, community mental health services programs, or county  
26 community mental health agencies.

27 (23) "Dependent living setting" means all of the following:

1 (a) An adult foster care facility.

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

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

6 (24) "Designated representative" means any of the following:

7 (a) A registered nurse or licensed practical nurse licensed or  
8 otherwise authorized under part 172 of the public health code, 1978  
9 PA 368, MCL 333.17201 to 333.17242.

10 (b) A paramedic licensed or otherwise authorized under part  
11 209 of the public health code, 1978 PA 368, MCL 333.20901 to  
12 333.20979.

13 (c) A physician's assistant licensed or otherwise authorized  
14 under part 170 or 175 of the public health code, 1978 PA 368, MCL  
15 333.17001 to 333.17084 and 333.17501 to 333.17556.

16 (d) An individual qualified by education, training, and  
17 experience who performs acts, tasks, or functions under the  
18 supervision of a physician.

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

20 (a) If applied to an individual older than 5 years of age, a  
21 severe, chronic condition that meets all of the following  
22 requirements:

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

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

26 (iii) Is likely to continue indefinitely.

27 (iv) Results in substantial functional limitations in 3 or more

1 of the following areas of major life activity:

2 (A) Self-care.

3 (B) Receptive and expressive language.

4 (C) Learning.

5 (D) Mobility.

6 (E) Self-direction.

7 (F) Capacity for independent living.

8 (G) Economic self-sufficiency.

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

13 (b) If applied to a minor from birth to 5 years of age, a  
14 substantial developmental delay or a specific congenital or  
15 acquired condition with a high probability of resulting in  
16 developmental disability as defined in subdivision (a) if services  
17 are not provided.

18 (26) "Director" means the director of the department or his or  
19 her designee.

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

22 (28) "Eligible minor" means an individual less than 18 years  
23 of age who is recommended in the written report of a  
24 multidisciplinary team under rules promulgated by the department of  
25 education to be classified as 1 of the following:

26 (a) Severely mentally impaired.

27 (b) Severely multiply impaired.

1 (c) Autistic impaired and receiving special education services  
2 in a program designed for the autistic impaired under subsection  
3 (1) of R 340.1758 of the Michigan administrative code or in a  
4 program designed for the severely mentally impaired or severely  
5 multiply impaired.

6 (29) "Emergency situation" means a situation in which an  
7 individual is experiencing a serious mental illness or a  
8 developmental disability, or a minor is experiencing a serious  
9 emotional disturbance, and 1 of the following applies:

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

13 (b) The individual is unable to provide himself or herself  
14 food, clothing, or shelter or to attend to basic physical  
15 activities such as eating, toileting, bathing, grooming, dressing,  
16 or ambulating, and this inability may lead in the near future to  
17 harm to the individual or to another individual.

18 (c) The individual's judgment is so impaired that he or she is  
19 unable to understand the need for treatment and, in the opinion of  
20 the mental health professional, his or her continued behavior as a  
21 result of the **LACK OF UNDERSTANDING OF HIS OR HER** mental illness,  
22 developmental disability, or emotional disturbance can reasonably  
23 be expected in the near future to result in physical harm to the  
24 individual or to another individual.

25 (30) "Executive director" means an individual appointed under  
26 section 226 to direct a community mental health services program or  
27 his or her designee.

1           Sec. 100c. (1) "Peace officer" means an officer of the  
2 department of state police or of a law enforcement agency of a  
3 county, township, city, or village who is responsible for the  
4 prevention and detection of crime and enforcement of the criminal  
5 laws of this state. For the purposes of sections 408, **426, 427A,**  
6 and ~~427, 427B~~, peace officer also includes an officer of the United  
7 States ~~secret service~~ **SECRET SERVICE** with the officer's consent and  
8 a police officer of the ~~veterans' administration medical center~~  
9 **VETERANS' ADMINISTRATION MEDICAL CENTER** reservation.

10           (2) "Peer review" means a process, including the review  
11 process required under section 143a, in which mental health  
12 professionals of a state facility, licensed hospital, or community  
13 mental health services program evaluate the clinical competence of  
14 staff and the quality and appropriateness of care provided to  
15 recipients. Peer review evaluations are confidential in accordance  
16 with section 748(9) and are based on criteria established by the  
17 facility or community mental health services program itself, the  
18 accepted standards of the mental health professions, and the  
19 department.

20           (3) "Person requiring treatment" means an individual who meets  
21 the criteria described in section 401.

22           (4) "Physician" means an individual licensed or otherwise  
23 authorized to engage in the practice of medicine under part 170 of  
24 the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or  
25 to engage in the practice of osteopathic medicine and surgery under  
26 part 175 of the public health code, 1978 PA 368, MCL 333.17501 to  
27 333.17556.

1 (5) "Primary consumer" means an individual who has received or  
2 is receiving services from the department or a community mental  
3 health services program or services from the private sector  
4 equivalent to those offered by the department or a community mental  
5 health services program.

6 (6) "Priority" means preference for and dedication of a major  
7 proportion of resources to specified populations or services.  
8 Priority does not mean serving or funding the specified populations  
9 or services to the exclusion of other populations or services.

10 (7) "Protective custody" means the temporary custody of an  
11 individual by a peace officer with or without the individual's  
12 consent for the purpose of protecting that individual's health and  
13 safety, or the health and safety of the public, and for the purpose  
14 of transporting the individual under section 276, 408, or 427 if  
15 the individual appears, in the judgment of the peace officer, to be  
16 a person requiring treatment or is a person requiring treatment.  
17 Protective custody is civil in nature and is not an arrest.

18 (8) "Psychiatric partial hospitalization program" means a  
19 nonresidential treatment program that provides psychiatric,  
20 psychological, social, occupational, nursing, music therapy, and  
21 therapeutic recreational services under the supervision of a  
22 physician to adults diagnosed as having serious mental illness or  
23 minors diagnosed as having serious emotional disturbance who do not  
24 require 24-hour continuous mental health care, and that is  
25 affiliated with a psychiatric hospital or psychiatric unit to which  
26 clients may be transferred if they need inpatient psychiatric care.

27 (9) "Psychiatric unit" means a unit of a general hospital that

1 provides inpatient services for individuals with serious mental  
2 illness or serious emotional disturbance. As used in this  
3 subsection, "general hospital" means a hospital as defined in  
4 section 20106 of the public health code, 1978 PA 368, MCL  
5 333.20106.

6 (10) "Psychiatrist" means 1 or more of the following:

7 (a) A physician who has completed a residency program in  
8 psychiatry approved by the ~~accreditation council~~ **ACCREDITATION**  
9 **COUNCIL** for ~~graduate medical education~~ **GRADUATE MEDICAL EDUCATION**  
10 or the American ~~osteopathic association~~, **OSTEOPATHIC ASSOCIATION**,  
11 or who has completed 12 months of psychiatric rotation and is  
12 enrolled in an approved residency program as described in this  
13 subdivision.

14 (b) A psychiatrist employed by or under contract with the  
15 department or a community mental health services program on March  
16 28, 1996.

17 (c) A physician who devotes a substantial portion of his or  
18 her time to the practice of psychiatry and is approved by the  
19 director.

20 (11) "Psychologist" means an individual who is licensed or  
21 otherwise authorized to engage in the practice of psychology under  
22 part 182 of the public health code, 1978 PA 368, MCL 333.18201 to  
23 333.18237, and who devotes a substantial portion of his or her time  
24 to the diagnosis and treatment of individuals with serious mental  
25 illness, serious emotional disturbance, substance use disorder, or  
26 developmental disability.

27 (12) "Recipient" means an individual who receives mental

1 health services from the department, a community mental health  
2 services program, or a facility or from a provider that is under  
3 contract with the department or a community mental health services  
4 program. For the purposes of this act, recipient does not include  
5 an individual receiving substance use disorder services under  
6 chapter 2A unless that individual is also receiving mental health  
7 services under this act in conjunction with substance use disorder  
8 services.

9 (13) "Recipient rights advisory committee" means a committee  
10 of a community mental health services program board appointed under  
11 section 757 or a recipient rights advisory committee appointed by a  
12 licensed hospital under section 758.

13 (14) "Recovery" means a highly individualized process of  
14 healing and transformation by which the individual gains control  
15 over his or her life. Related services include recovery management,  
16 recovery support services, recovery houses or transitional living  
17 programs, and relapse prevention. Recovery involves the development  
18 of a new meaning, purpose, and growing beyond the impact of  
19 addiction or a diagnosis. Recovery may include the pursuit of  
20 spiritual, emotional, mental, or physical well-being.

21 (15) "Regional entity" means an entity established under  
22 section 204b to provide specialty services and supports.

23 (16) "Rehabilitation" means the act of restoring an individual  
24 to a state of mental and physical health or useful activity through  
25 vocational or educational training, therapy, and counseling.

26 (17) "Resident" means an individual who receives services in a  
27 facility.

1 (18) "Responsible mental health agency" means the hospital,  
2 center, or community mental health services program that has  
3 primary responsibility for the recipient's care or for the delivery  
4 of services or supports to that recipient.

5 (19) "Rule" means a rule promulgated under the administrative  
6 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 **SEC. 400B. A REFERENCE TO A TIME FRAME UNDER THIS CHAPTER OF**  
8 **12 HOURS TO 168 HOURS OR AN EQUIVALENT AMOUNT OF DAYS EXCLUDES**  
9 **SUNDAYS AND LEGAL HOLIDAYS.**

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

12 (a) An individual who has mental illness, and who as a result  
13 of that mental illness can reasonably be expected within the near  
14 future to intentionally or unintentionally seriously physically  
15 injure himself, herself, or another individual, and who has engaged  
16 in an act or acts or made significant threats that are  
17 substantially supportive of the expectation.

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

24 (c) An individual who has mental illness, whose judgment is so  
25 impaired that he or she is unable to understand his or her need for  
26 treatment and whose ~~continued behavior as the result of this mental~~  
27 ~~illness~~ **LACK OF UNDERSTANDING** can reasonably be expected, on the

1 basis of competent clinical opinion, to result in ~~significant~~  
2 ~~physical~~ harm to himself, herself, or others **IN THE NEAR FUTURE**.  
3 ~~This individual shall receive involuntary mental health treatment~~  
4 ~~initially only under the provisions of sections 434 through 438.~~

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

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

1           Sec. 404. ~~The~~ **EXCEPT AS PROVIDED IN THIS SECTION, THE**  
2 department shall prescribe the forms to be used under this chapter,  
3 and all hospitals shall use department forms. ~~Forms that may be~~  
4 ~~used in court proceedings under this chapter shall be subject to~~  
5 ~~the approval of the supreme court.~~ **AT THE DIRECTION OF THE SUPREME**  
6 **COURT, THE STATE COURT ADMINISTRATIVE OFFICE SHALL PRESCRIBE THE**  
7 **FORMS USED FOR COURT PROCEEDINGS UNDER THIS CHAPTER.**

8           Sec. 420. If a written notice of termination of  
9 hospitalization is given to a hospital under section 419, if the  
10 notice is not withdrawn, and if the hospital director determines  
11 that the patient is a person requiring treatment ~~as defined in~~  
12 ~~section 401~~ and should remain in the hospital, the hospital  
13 director or other suitable person shall within 3 days ~~, excluding~~  
14 ~~Sundays and holidays,~~ after the hospital's receipt of the notice,  
15 file ~~an application~~ **A PETITION** with the court that complies with  
16 section 423. ~~434.~~ The ~~application~~ **PETITION** shall be accompanied by  
17 1 clinical certificate executed by a psychiatrist and 1 clinical  
18 certificate executed by either a physician or a licensed  
19 psychologist. If ~~an application~~ **A PETITION** is filed, the hospital  
20 may continue hospitalization of the patient pending hearings  
21 convened ~~pursuant to~~ **UNDER** sections 451 to 465.

22           Sec. 422. (1) Each community mental health services program  
23 shall designate the hospitals with which it has a contract to  
24 receive and detain individuals under section ~~426, 427, or 428.~~ **435,**  
25 **436, OR 438.**

26           (2) Each community mental health services program shall give  
27 notice of the hospitals designated under subsection (1) to the

1 department and to the probate court of each county in the program's  
2 service area.

3 (3) The department shall designate ~~these~~ **ANY ADDITIONAL**  
4 hospitals that are required to receive and detain individuals  
5 presented for examination under section **426, 427, ~~or 428.~~ 435, 436,**  
6 **OR 438.**

7 Sec. 423. A hospital designated by the department or by a  
8 community mental health services program shall hospitalize an  
9 individual presented to the hospital, pending receipt of a clinical  
10 certificate by a psychiatrist stating that the individual is a  
11 person requiring treatment, if ~~an application,~~ **A PETITION,** a  
12 physician's or a licensed psychologist's clinical certificate, and  
13 an authorization by a preadmission screening unit have been  
14 executed. **FOR AN INDIVIDUAL HOSPITALIZED UNDER THIS SECTION, A**  
15 **PETITION SHALL HAVE BEEN EXECUTED NOT MORE THAN 10 DAYS BEFORE THE**  
16 **PRESENTATION OF THE INDIVIDUAL TO THE HOSPITAL, AND THE PETITION**  
17 **MUST MEET THE CONDITIONS SET FORTH IN SECTION 434(1) AND (2).**

18 Sec. 425. A physician's or a licensed psychologist's clinical  
19 certificate required for hospitalization of an individual under  
20 section 423 shall have been executed after personal examination of  
21 the individual named in the clinical certificate, and within 72  
22 hours before the time the clinical certificate is ~~filed with~~  
23 **RECEIVED BY** the hospital. The clinical certificate may be executed  
24 by any physician or licensed psychologist, including **A PHYSICIAN OR**  
25 **LICENSED PSYCHOLOGIST WHO IS** a staff member or employee of the  
26 hospital ~~with which~~ **THAT RECEIVED** the ~~application and~~ clinical  
27 certificate. ~~are filed.~~

1           Sec. 426. Upon delivery to a peace officer of ~~an application~~**A**  
2 **PETITION** and **A** physician's or licensed psychologist's clinical  
3 certificate, the peace officer shall take the individual named in  
4 the ~~application~~**PETITION** into protective custody and transport the  
5 individual immediately to the preadmission screening unit or  
6 hospital designated by the community mental health services program  
7 for hospitalization under section 423. If the individual taken to a  
8 preadmission screening unit meets the requirements for  
9 hospitalization, then unless the community mental health services  
10 program makes other transportation arrangements, the peace officer  
11 shall take the individual to a hospital designated by the community  
12 mental health services program. Transportation to another hospital  
13 due to a transfer is the responsibility of the community mental  
14 health services program.

15           Sec. 427. (1) If a peace officer observes an individual  
16 conducting himself or herself in a manner that causes the peace  
17 officer to reasonably believe that the individual is a person  
18 requiring treatment, ~~as defined in section 401,~~ the peace officer  
19 may take the individual into protective custody and transport the  
20 individual to a preadmission screening unit designated by a  
21 community mental health services program for examination under  
22 section 429 or for mental health intervention services. The  
23 preadmission screening unit shall provide those mental health  
24 intervention services that it considers appropriate or shall  
25 provide an examination under section 429. The preadmission  
26 screening services may be provided at the site of the preadmission  
27 screening unit or at a site designated by the preadmission

1 screening unit. Upon arrival at the preadmission screening unit or  
2 site designated by the preadmission screening unit, the peace  
3 officer shall execute ~~an application~~ **A PETITION** for hospitalization  
4 of the individual. As soon as practical, the preadmission screening  
5 unit shall offer to contact an immediate family member of the  
6 recipient to let the family know that the recipient has been taken  
7 into protective custody and where he or she is located. The  
8 preadmission screening unit shall honor the recipient's decision as  
9 to whether an immediate family member is to be contacted and shall  
10 document that decision in the recipient's record. In the course of  
11 providing services, the preadmission screening unit may provide  
12 advice and consultation to the peace officer, which may include a  
13 recommendation ~~to transport the individual to a hospital for~~  
14 ~~examination under section 429, or to release the individual from~~  
15 protective custody. ~~However,~~ **IN ALL CASES WHERE A PEACE OFFICER HAS**  
16 **EXECUTED A PETITION,** the preadmission screening unit shall ensure  
17 that an examination is conducted by a physician or licensed  
18 psychologist. ~~prior to a recommendation to release the individual.~~  
19 The preadmission screening unit shall ensure provision of follow-up  
20 counseling and diagnostic and referral services if needed if it is  
21 determined under section 429 that the person does not meet the  
22 requirements for hospitalization.

23 (2) A peace officer is not financially responsible for the  
24 cost of care of an individual for whom a peace officer has executed  
25 ~~an application~~ **A PETITION** under subsection (1).

26 (3) A hospital receiving an individual under subsection (1)  
27 who has been referred by a community mental health services

1 program's preadmission screening unit shall notify that unit of the  
2 results of an examination of that individual conducted by the  
3 hospital.

4 Sec. 429. (1) A hospital designated under section 422 shall  
5 receive and detain an individual presented for examination under  
6 section ~~426~~, 427, ~~435~~, ~~436~~, or ~~428-438~~, for not more than 24 hours.  
7 During that time the individual shall be examined by a physician or  
8 a licensed psychologist **UNLESS A CLINICAL CERTIFICATE HAS ALREADY**  
9 **BEEN PRESENTED TO THE HOSPITAL**. If the examining physician or  
10 psychologist does not certify that the individual is a person  
11 requiring treatment, the individual shall be released immediately.  
12 If the examining physician or psychologist executes a clinical  
13 certificate, the individual may be hospitalized under section 423.

14 (2) If a preadmission screening unit provides an examination  
15 under section ~~409~~, 410, ~~OR~~ 427, ~~or 428~~, the examination shall be  
16 conducted as soon as possible after the individual arrives at the  
17 preadmission screening site, and the examination shall be completed  
18 within 2 hours, unless there are documented medical reasons why the  
19 examination cannot be completed within that time frame or other  
20 arrangements are agreed upon by the peace officer and the  
21 preadmission screening unit.

22 Sec. 431. (1) Within 24 hours after receipt of a clinical  
23 certificate by a psychiatrist ~~pursuant~~ **ACCORDING** to section 430,  
24 the hospital director shall transmit a notice to the court that the  
25 patient has been hospitalized. The notice shall be accompanied by a  
26 ~~copy of the application~~ **THE PETITION** and ~~copies of the 2 clinical~~  
27 certificates that were executed.

1           (2) A copy of the ~~application,~~ **PETITION**, a copy of the 2  
2 clinical certificates, and a statement of the right of the patient  
3 to court hearings under sections 451 to 465 shall also be given or  
4 mailed to the patient's nearest relative, **HIS** or **HER** guardian, **IF**  
5 **ANY**, and ~~to~~ his or her attorney.

6           (3) The patient shall be asked if he or she desires that the  
7 documents listed in subsection (2) be sent to any other persons,  
8 and at least 2 of any persons the patient designates shall be sent  
9 the documents.

10           Sec. 434. (1) Any individual 18 years of age or over may file  
11 with the court a petition that asserts that an individual is a  
12 person requiring treatment. ~~as defined in section 401.~~

13           (2) The petition shall contain the facts that are the basis  
14 for the assertion, the names and addresses, if known, of any  
15 witnesses to the facts, and, if known, the name and address of the  
16 nearest relative or guardian, or, if none, a friend, if known, of  
17 the individual.

18           (3) ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION (6), THE** petition  
19 shall be accompanied by the clinical certificate of a physician or  
20 a licensed psychologist, unless after reasonable effort the  
21 petitioner could not secure an examination. If a clinical  
22 certificate does not accompany the petition, an affidavit setting  
23 forth the reasons an examination could not be secured shall also be  
24 filed. The petition may also be accompanied by a second clinical  
25 certificate. If 2 clinical certificates accompany the petition, at  
26 least 1 clinical certificate shall have been executed by a  
27 psychiatrist.

1           (4) Except as otherwise provided in **SUBSECTION (6) AND** section  
2 455, a clinical certificate that accompanies a petition shall have  
3 been executed within 72 hours before the filing of the petition,  
4 and after personal examination of the individual.

5           **(5) THE PETITION DESCRIBED IN THIS SECTION MAY ASSERT THAT THE**  
6 **SUBJECT OF THE PETITION SHOULD RECEIVE ASSISTED OUTPATIENT**  
7 **TREATMENT IN ACCORDANCE WITH SECTION 468(2)(E).**

8           **(6) A PETITION THAT DOES NOT SEEK HOSPITALIZATION BUT ONLY**  
9 **REQUESTS THAT THE SUBJECT OF THE PETITION RECEIVE ASSISTED**  
10 **OUTPATIENT TREATMENT IS NOT SUBJECT TO SUBSECTION (3) OR (4).**

11           Sec. 435. (1) If the petition is accompanied by 1 clinical  
12 certificate, the court shall order the individual to be examined by  
13 a psychiatrist.

14           (2) If the petition is not accompanied by a clinical  
15 certificate, and if the court is satisfied a reasonable effort was  
16 made to secure an examination, the court shall order the individual  
17 to be examined by a psychiatrist and either a physician or a  
18 licensed psychologist.

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

22           (4) After any examination ordered under this section, the  
23 examining physician or licensed psychologist shall either transmit  
24 a clinical certificate to the court or report to the court that  
25 execution of a clinical certificate is not warranted.

26           (5) If 1 examination was ordered and the examining physician  
27 or licensed psychologist reports that execution of a clinical

1 certificate is not warranted, or if 2 examinations were ordered and  
2 1 of the examining physicians or the licensed psychologist reports  
3 that execution of a clinical certificate is not warranted, the  
4 court shall dismiss the petition or order the individual to be  
5 examined by a psychiatrist, or if a psychiatrist is not available,  
6 by a physician or licensed psychologist. If a third examination  
7 report states that execution of a clinical certificate is not  
8 warranted, the court shall dismiss the petition.

9       Sec. 438. If it appears to the court that the individual  
10 requires immediate involuntary mental health treatment in order to  
11 prevent physical harm to himself or herself, or others, the court  
12 may order the individual hospitalized and may order a peace officer  
13 to take the individual into protective custody and transport the  
14 individual to a preadmission screening unit designated by the  
15 community mental health services program. If the preadmission  
16 screening unit authorizes hospitalization, the peace officer shall  
17 transport the individual to a hospital designated by the community  
18 mental health services program, unless other arrangements are  
19 provided by the preadmission screening unit. If the examinations  
20 and clinical certificates of the psychiatrist, and the physician or  
21 the licensed psychologist, are not completed within 24 hours after  
22 hospitalization, the individual shall be released.

23       Sec. 447. Immediately after an individual is received at a  
24 hospital for hospitalization under section ~~423~~ or 438, or for  
25 examination under any provision of this chapter, he **OR SHE** shall be  
26 allowed to complete a reasonable number of telephone calls to  
27 persons of his **OR HER** own choice. In no event shall the calls be

1 limited to less than 2. If the individual has insufficient funds on  
2 his **OR HER** person, at least 2 calls shall be allowed at the expense  
3 of the hospital.

4 Sec. 448. (1) Not later than 12 hours after an individual is  
5 hospitalized under section ~~423 or~~ 438, the hospital director shall  
6 ensure that the individual receives all of the following:

7 (a) A copy of the ~~application or~~ petition that asserted that  
8 the individual is a person requiring treatment.

9 (b) A written statement explaining that the individual will be  
10 examined by a psychiatrist within 24 hours after his or her  
11 hospitalization. ~~, excluding legal holidays.~~

12 (c) A written statement in simple terms explaining the rights  
13 of the individual to a full court hearing ~~pursuant~~ **ACCORDING** to  
14 sections 451 to 465, to be present at the hearing, to be  
15 represented by legal counsel, to a jury trial, and to an  
16 independent clinical evaluation.

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

22 (3) An individual awaiting a court hearing mandated ~~pursuant~~  
23 ~~to~~ **UNDER** section 452 may sign a form provided by the department  
24 accepting psychotropic drugs and other treatment without having to  
25 consent to the hospitalization, unless the hospital director has  
26 reason to believe the individual is not capable of giving informed  
27 consent to treatment.

1           Sec. 449. The hospital director shall ensure that an  
2 individual who is hospitalized ~~pursuant to~~ **UNDER** section ~~423 or 438~~  
3 receives a copy of each clinical certificate executed in connection  
4 with the individual's hospitalization. Each clinical certificate  
5 shall be delivered to the individual within 24 hours of either the  
6 clinical certificate's completion or ~~the~~ receipt of the clinical  
7 certificate by the hospital.

8           Sec. 451. Court hearings convened under authority of this  
9 chapter ~~shall be~~ **ARE** governed by sections 452 to 465, **EXCEPT THAT**  
10 **SECTIONS 453(2), 453A, AND 455(3) TO (11) DO NOT APPLY TO A**  
11 **PETITION SEEKING ONLY ASSISTED OUTPATIENT TREATMENT.**

12           Sec. 452. (1) The court shall fix a date for every hearing  
13 convened under this chapter. ~~The~~ **EXCEPT AS PROVIDED IN SUBSECTION**  
14 **(2), THE** hearing shall be convened promptly, but not more than 7  
15 days ~~, excluding Sundays and holidays,~~ after the court's receipt of  
16 any of the following:

17 ~~—— (a) An application for hospitalization, which shall serve as a~~  
18 ~~petition for a determination that an individual is a person~~  
19 ~~requiring treatment, a clinical certificate executed by a physician~~  
20 ~~or a licensed psychologist, and a clinical certificate executed by~~  
21 ~~a psychiatrist.~~

22           **(A)** ~~(b)~~ A petition for a determination that an individual is a  
23 person requiring treatment, a clinical certificate executed by a  
24 physician or a licensed psychologist, and a clinical certificate  
25 executed by a psychiatrist.

26           **(B)** ~~(c)~~ A petition for a determination that an individual  
27 continues to be a person requiring treatment and a clinical

1 certificate executed by a psychiatrist.

2 (C) ~~(d)~~—A petition for discharge filed under section 484.

3 ~~—(e) A petition for discharge filed under section 485 and a~~  
4 ~~physician's or a licensed psychologist's clinical certificate.~~

5 (D) ~~(f)~~—A demand or notification that a hearing that has been  
6 temporarily deferred under section ~~455(5)~~ **455(6)** be convened.

7 **(2) A HEARING FOR A PETITION UNDER SECTION 434(6) SHALL BE**  
8 **CONVENED NOT MORE THAN 28 DAYS AFTER THE FILING OF THE PETITION.**

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

11 (2) Unless an appearance has been entered on behalf of the  
12 subject of a petition, the court shall, within 48 hours after its  
13 receipt of any petition together with the other documents required  
14 by section 452, appoint counsel to represent the subject of the  
15 petition, except that if an individual has been hospitalized, ~~under~~  
16 ~~section 423 or 438,~~ counsel shall be appointed within 24 hours  
17 after the hospitalization.

18 (3) If, after consultation with appointed counsel, the subject  
19 of a petition desires to waive his or her right to counsel, he or  
20 she may do so by notifying the court in writing.

21 (4) If the subject of a petition prefers counsel other than  
22 the initially appointed counsel, the preferred counsel agrees to  
23 accept the appointment, and the court is notified of the preference  
24 by the subject of the petition or the preferred counsel, the court  
25 shall replace the initially appointed counsel with the preferred  
26 counsel.

27 (5) If the subject of a petition is indigent, the court shall

1 compensate appointed counsel from court funds in an amount that is  
2 reasonable and based upon time and expenses.

3 (6) The supreme court may, by court rule, establish the  
4 compensation to be paid for counsel of indigents and may require  
5 that counsel be appointed from a system or organization established  
6 for the purpose of providing representation in proceedings governed  
7 by this chapter.

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

11 (8) Legal counsel for the subject of a petition under section  
12 452(a) or (b) who is hospitalized pending the court hearing shall  
13 consult in person with the individual not more than 72 hours ~~7~~  
14 ~~excluding Sundays and holidays,~~ after the petition and 2 clinical  
15 certificates have been filed with the court.

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

20 Sec. 455. (1) The subject of a petition has the right to be  
21 present at all hearings. This right may be waived by a waiver of  
22 attendance signed by the subject of a petition, witnessed by his or  
23 her legal counsel, and filed with the court or it may be waived in  
24 open court at a scheduled hearing. The subject's right to be  
25 present at a hearing is considered waived by the subject's failure  
26 to attend the hearing after receiving notice required by section  
27 453 and any applicable court rule, providing the subject has had an

1 opportunity to consult with counsel as required under section 454.  
2 The court may exclude the subject from a hearing if the subject's  
3 behavior at the hearing makes it impossible to conduct the hearing.  
4 The court shall enter on the record its reasons for excluding the  
5 subject of a petition from the hearing. The subject's presence may  
6 be waived by the court if there is testimony by a physician or  
7 licensed psychologist who has recently observed the subject that  
8 the subject's attendance would expose him or her to serious risk of  
9 physical harm.

10           (2) **THE SUBJECT OF THE PETITION UNDER SECTION 434, AFTER**  
11 **CONSULTATION WITH COUNSEL, MAY STIPULATE TO THE ENTRY OF ANY ORDER**  
12 **FOR TREATMENT.**

13           (3) ~~(2)~~The subject of a petition under section ~~452(a) or (b)~~  
14 **434** who is hospitalized pending the court hearing, within 72 hours  
15 ~~, excluding Sundays and holidays,~~ after the petition and clinical  
16 certificates have been filed with the court, shall meet with legal  
17 counsel, a treatment team member assigned by the hospital director,  
18 a person assigned by the executive director of the responsible  
19 community mental health services program **OR OTHER PROGRAM**, and, if  
20 possible, a person designated by the subject of the petition, in  
21 order to be informed of all of the following:

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

23           (b) The nature and possible consequences of commitment  
24 procedures.

25           (c) The proposed plan of treatment in the community consisting  
26 of either an alternative to hospitalization or a combination of  
27 hospitalization and alternative treatment with hospitalization not

1 to exceed 60 days.

2 (d) The right to request that the hearing be temporarily  
3 deferred, with a continuing right to demand a hearing during the  
4 deferral period. The deferral period shall be 60 days if the  
5 individual chooses to remain hospitalized, or 90 days if the  
6 individual chooses alternative treatment or a combination of  
7 hospitalization and alternative treatment.

8 (4) ~~(3)~~—The person designated by the subject of the petition  
9 under subsection ~~(2)~~—(3) may be any person who is willing and able  
10 to attend the meeting, including a representative of an advocacy  
11 group or the recipient rights adviser of the hospital.

12 (5) ~~(4)~~—The hospital in which the subject of a petition under  
13 section ~~452(a) or (b)~~ **434** is hospitalized shall notify the  
14 participants of the meeting required by subsection ~~(2)~~—(3).

15 (6) ~~(5)~~—The subject of a petition under section ~~452(a) or (b)~~  
16 **434** who is hospitalized pending the court hearing may file with the  
17 court a request to temporarily defer the hearing for not longer  
18 than 60 days if the individual chooses to remain hospitalized, or  
19 90 days if the individual chooses alternative treatment or a  
20 combination of hospitalization and alternative treatment. The  
21 request shall include a stipulation that the individual agrees to  
22 remain hospitalized and to accept treatment as may be prescribed  
23 for the deferral period, or to accept and follow the proposed plan  
24 of treatment as described in subsection ~~(2)(e)~~—(3) (C) for the  
25 deferral period, and further agrees that at any time the individual  
26 may refuse treatment and demand a hearing under section 452. The  
27 request to temporarily defer the hearing shall be on a form

1 provided by the department and signed by the individual in the  
2 presence of his or her legal counsel and shall be filed with the  
3 court by legal counsel.

4 (7) ~~(6)~~ Upon receipt of the request and stipulation **UNDER**  
5 **SUBSECTION (6)**, the court shall temporarily defer the hearing.  
6 During the deferral period, both the original petition and the  
7 clinical certificates remain valid. ~~However, if~~ **IF** the hearing is  
8 convened, the court may require additional clinical certificates  
9 and information from the provider. The court shall retain  
10 continuing jurisdiction during the deferral period.

11 (8) ~~(7)~~ Upon receipt of a copy of the request to temporarily  
12 defer the hearing under subsection ~~(5)~~, ~~(6)~~, if the individual has  
13 agreed to remain hospitalized, ~~as described in subsection (2) (a) or~~  
14 ~~(e)~~, the hospital director shall treat the individual as a formal  
15 voluntary patient without requiring the individual to sign formal  
16 voluntary admission forms. If the individual, at any time during  
17 the period in which the hearing is being deferred, refuses the  
18 prescribed treatment or requests a hearing, either in writing or  
19 orally, treatment shall cease, the hospitalized individual shall  
20 remain hospitalized with the status of the subject of a petition  
21 under section ~~452(a) or (b)~~, ~~434~~, and the court shall be notified  
22 to convene a hearing under section ~~452(f)~~. **452 (1) (D)**.

23 (9) ~~(8)~~ Upon receipt of a copy of the request to temporarily  
24 defer the hearing under subsection ~~(5)~~, ~~(6)~~, if the individual has  
25 agreed to participate in an alternative to hospitalization in the  
26 community, the hospital director shall release the individual from  
27 the hospital to the alternative treatment provider. If the

1 individual, at any time during the deferral period, refuses the  
2 prescribed treatment or requests a hearing, either in writing or  
3 orally, treatment shall cease and the court shall be notified to  
4 convene a hearing under section ~~452(f)~~. **452(1)(D)**. Upon  
5 notification, the court shall, if necessary, order a peace officer  
6 to transport the individual to the hospital where the individual  
7 shall remain until the hearing is convened. The individual shall be  
8 given the status of the subject of a petition under section ~~452(a)~~  
9 ~~or (b)~~. **434**.

10 **(10)** ~~(9)~~—If the individual has remained hospitalized and if,  
11 not earlier than 14 days nor later than 7 days before the  
12 expiration of the deferral period, the hospital director believes  
13 that the condition of the individual is such that he or she  
14 continues to require treatment, and believes that the individual  
15 will not agree to sign a formal voluntary admission request or is  
16 considered by the hospital not to be suitable for voluntary  
17 admission, the hospital director shall notify the court to convene  
18 a hearing under section ~~452(f)~~. **452(1)(D)**.

19 **(11)** ~~(10)~~—If the individual is participating in an alternative  
20 to hospitalization in the community as described in subsection  
21 ~~(2)(e)~~ **(3)(C)** and if, not earlier than 14 days nor later than 7  
22 days before the expiration of the deferral period, the executive  
23 director of the community mental health services program  
24 responsible for the treatment that is an alternative to  
25 hospitalization believes that the condition of the individual is  
26 such that he or she continues to require treatment, and believes  
27 that the individual will not agree to accept treatment voluntarily

1 or is considered by the alternative treatment program provider not  
2 suitable for voluntary treatment, the executive director shall  
3 notify the court to convene a hearing under section  
4 ~~452(f)~~. **452(1)(D)**.

5       Sec. 463. (1) If requested before the first scheduled hearing  
6 or at the first scheduled hearing before the first witness has been  
7 sworn on ~~an application or~~ **A** petition, the subject of a petition in  
8 a hearing under this chapter has the right at his or her own  
9 expense, or if indigent, at public expense, to secure an  
10 independent clinical evaluation by a physician, psychiatrist, or  
11 licensed psychologist of his or her choice relevant to whether he  
12 or she requires treatment, whether he or she should be hospitalized  
13 or receive treatment other than hospitalization, and whether he or  
14 she is of legal capacity.

15       (2) Compensation for an evaluation performed by a physician or  
16 a licensed psychologist shall be in an amount that is reasonable  
17 and based upon time and expenses.

18       (3) The independent clinical evaluation described in this  
19 section is for the sole use of the subject of the petition. The  
20 independent clinical evaluation or the testimony of the individual  
21 performing the evaluation shall not be introduced into evidence  
22 without the consent of the subject of the petition.

23       Sec. 468. (1) ~~If~~ **FOR A PETITION FILED UNDER SECTION 434, IF**  
24 the court finds that an individual is not a person requiring  
25 treatment, the court shall enter a finding to that effect and, if  
26 the person has been hospitalized before the hearing, shall order  
27 that the person be discharged immediately.

1           (2) ~~IF~~ **FOR A PETITION FILED UNDER SECTION 434, IF** an  
2 individual is found to be a person requiring treatment, the court  
3 shall do 1 of the following:

4           (a) Order the individual hospitalized in a hospital  
5 recommended by the community mental health services program **OR**  
6 **OTHER ENTITY.**

7           (b) Order the individual hospitalized in a private or veterans  
8 administration hospital at the request of the individual or his or  
9 her family, if private or federal funds are to be utilized and if  
10 the hospital agrees. If the individual is hospitalized in a private  
11 or ~~veterans administration~~ **VETERANS ADMINISTRATION** hospital  
12 ~~pursuant to~~ **UNDER** this subdivision, any financial obligation for  
13 the hospitalization shall be satisfied from funding sources other  
14 than the community mental health services program, the department,  
15 or other state or county funding.

16           (c) Order the individual to undergo a program of treatment  
17 that is an alternative to hospitalization and that is recommended  
18 by the community mental health services program **OR OTHER ENTITY.**

19           (d) Order the individual to undergo a program of combined  
20 hospitalization and alternative treatment **OR HOSPITALIZATION AND**  
21 **ASSISTED OUTPATIENT TREATMENT,** as recommended by the community  
22 mental health services program **OR OTHER ENTITY.**

23           **(E) ORDER THE INDIVIDUAL TO RECEIVE ASSISTED OUTPATIENT**  
24 **TREATMENT THROUGH A COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR**  
25 **OTHER ENTITY CAPABLE OF PROVIDING THE NECESSARY TREATMENT AND**  
26 **SERVICES TO ASSIST THE INDIVIDUAL TO LIVE AND FUNCTION IN THE**  
27 **COMMUNITY AS SPECIFIED IN THE ORDER. THE COURT MAY INCLUDE CASE**

1 MANAGEMENT SERVICES AND 1 OR MORE OF THE FOLLOWING:

2 (i) MEDICATION.

3 (ii) BLOOD OR URINALYSIS TESTS TO DETERMINE COMPLIANCE WITH OR  
4 EFFECTIVENESS OF PRESCRIBED MEDICATION.

5 (iii) INDIVIDUAL OR GROUP THERAPY, OR BOTH.

6 (iv) DAY OR PARTIAL DAY PROGRAMS.

7 (v) EDUCATIONAL OR VOCATIONAL TRAINING.

8 (vi) SUPERVISED LIVING.

9 (vii) ASSISTED COMMUNITY TREATMENT TEAM SERVICES.

10 (viii) SUBSTANCE USE DISORDER TREATMENT.

11 (ix) SUBSTANCE USE DISORDER TESTING FOR INDIVIDUALS WITH A  
12 HISTORY OF ALCOHOL OR SUBSTANCE USE AND FOR WHOM THAT TESTING IS  
13 NECESSARY TO ASSIST THE COURT IN ORDERING TREATMENT DESIGNED TO  
14 PREVENT DETERIORATION. A COURT ORDER FOR SUBSTANCE USE TESTING IS  
15 SUBJECT TO REVIEW ONCE EVERY 180 DAYS.

16 (x) ANY OTHER SERVICES PRESCRIBED TO TREAT THE INDIVIDUAL'S  
17 MENTAL ILLNESS AND EITHER TO ASSIST THE INDIVIDUAL IN LIVING AND  
18 FUNCTIONING IN THE COMMUNITY OR TO HELP PREVENT A RELAPSE OR  
19 DETERIORATION THAT MAY REASONABLY BE PREDICTED TO RESULT IN SUICIDE  
20 OR THE NEED FOR HOSPITALIZATION.

21 (3) IN DEVELOPING AN ASSISTED OUTPATIENT TREATMENT ORDER, THE  
22 COURT SHALL CONSIDER ANY PREFERENCE OR MEDICATION EXPERIENCE  
23 REPORTED BY THE INDIVIDUAL OR HIS OR HER DESIGNATED REPRESENTATIVE,  
24 WHETHER OR NOT THE INDIVIDUAL HAS AN EXISTING INDIVIDUAL PLAN OF  
25 SERVICES UNDER SECTION 712, AND ANY DIRECTION INCLUDED IN A DURABLE  
26 POWER OF ATTORNEY OR ADVANCE DIRECTIVE THAT EXISTS.

27 (4) BEFORE AN ORDER OF ASSISTED OUTPATIENT TREATMENT EXPIRES,

1 IF THE INDIVIDUAL HAS NOT PREVIOUSLY DESIGNATED A PATIENT ADVOCATE  
2 OR EXECUTED AN ADVANCE DIRECTIVE, THE RESPONSIBLE COMMUNITY MENTAL  
3 HEALTH SERVICES PROGRAM OR OTHER ENTITY SHALL ASCERTAIN WHETHER THE  
4 INDIVIDUAL DESIRES TO ESTABLISH AN ADVANCE DIRECTIVE. IF SO, THE  
5 COMMUNITY MENTAL HEALTH SERVICES PROGRAM OR OTHER ENTITY SHALL  
6 DIRECT THE INDIVIDUAL TO THE APPROPRIATE COMMUNITY RESOURCE FOR  
7 ASSISTANCE IN DEVELOPING AN ADVANCE DIRECTIVE.

8 (5) IF AN ORDER FOR ASSISTED OUTPATIENT TREATMENT CONFLICTS  
9 WITH THE PROVISIONS OF AN EXISTING ADVANCE DIRECTIVE, DURABLE POWER  
10 OF ATTORNEY, OR INDIVIDUAL PLAN OF SERVICES DEVELOPED UNDER SECTION  
11 712, THE ASSISTED OUTPATIENT TREATMENT ORDER SHALL BE REVIEWED FOR  
12 POSSIBLE ADJUSTMENT BY A PSYCHIATRIST NOT PREVIOUSLY INVOLVED WITH  
13 DEVELOPING THE ASSISTED OUTPATIENT TREATMENT ORDER. IF AN ORDER FOR  
14 ASSISTED OUTPATIENT TREATMENT CONFLICTS WITH THE PROVISIONS OF AN  
15 EXISTING ADVANCE DIRECTIVE, DURABLE POWER OF ATTORNEY, OR  
16 INDIVIDUAL PLAN OF SERVICES DEVELOPED UNDER SECTION 712, THE COURT  
17 SHALL STATE THE COURT'S FINDINGS ON THE RECORD OR IN WRITING IF THE  
18 COURT TAKES THE MATTER UNDER ADVISEMENT, INCLUDING THE REASON FOR  
19 CONFLICT.

20 Sec. 469a. (1) ~~Before~~—EXCEPT FOR A PETITION FILED AS DESCRIBED  
21 UNDER SECTION 434(6), BEFORE ordering a course of treatment for an  
22 individual found to be a person requiring treatment, the court  
23 shall review a report on alternatives to hospitalization that was  
24 prepared under section 453a not more than 15 days before the court  
25 issues the order. After reviewing the report, the court shall do  
26 all of the following:

27 (a) Determine whether a treatment program that is an

1 alternative to hospitalization or that follows an initial period of  
2 hospitalization is adequate to meet the individual's treatment  
3 needs and is sufficient to prevent harm that the individual may  
4 inflict upon himself or herself or upon others within the near  
5 future.

6 (b) Determine whether there is an agency or mental health  
7 professional available to supervise the individual's alternative  
8 treatment program.

9 (c) Inquire as to the individual's desires regarding  
10 alternatives to hospitalization.

11 (2) If the court determines that there is a treatment program  
12 that is an alternative to hospitalization that is adequate to meet  
13 the individual's treatment needs and prevent harm that the  
14 individual may inflict upon himself or herself or upon others  
15 within the near future and that an agency or mental health  
16 professional is available to supervise the program, the court shall  
17 issue an order for alternative treatment or combined  
18 hospitalization and alternative treatment in accordance with  
19 section 472a. The order shall state the community mental health  
20 services program or, if private arrangements have been made for the  
21 reimbursement of mental health treatment services in an alternative  
22 setting, the name of the mental health agency or professional that  
23 is directed to supervise the individual's alternative treatment  
24 program. The order may provide that if an individual refuses to  
25 comply with a psychiatrist's order to return to the hospital, a  
26 peace officer shall take the individual into protective custody and  
27 transport the individual to the hospital selected.

1           (3) If the court orders assisted outpatient treatment as the  
2 alternative to hospitalization, the order shall ~~require assisted~~  
3 ~~outpatient treatment through a community mental health services~~  
4 ~~program or any other publicly funded entity necessary for~~  
5 ~~fulfillment of the assisted outpatient treatment plan. The order~~  
6 ~~shall include case management services. The order for assisted~~  
7 ~~outpatient treatment may include 1 or more of the following:~~**BE**  
8 **CONSISTENT WITH THE PROVISIONS OF SECTION 468(2)(E).**

9           ~~—— (a) Medication.~~

10          ~~—— (b) Blood or urinalysis tests to determine compliance with~~  
11 ~~prescribed medications.~~

12          ~~—— (c) Individual or group therapy.~~

13          ~~—— (d) Day or partial day programs.~~

14          ~~—— (e) Educational and vocational training.~~

15          ~~(f) Supervised living.~~

16          ~~—— (g) Assertive community treatment team services.~~

17          ~~—— (h) Alcohol or substance abuse treatment, or both.~~

18          ~~—— (i) Alcohol or substance abuse testing, or both, for~~  
19 ~~individuals with a history of alcohol or substance abuse and for~~  
20 ~~whom that testing is necessary to prevent a deterioration of their~~  
21 ~~condition. A court order for alcohol or substance abuse testing~~  
22 ~~shall be subject to review every 6 months.~~

23          ~~—— (j) Any other services prescribed to treat the individual's~~  
24 ~~mental illness and to either assist the individual in living and~~  
25 ~~functioning in the community or to help prevent a relapse or~~  
26 ~~deterioration that may reasonably be predicted to result in suicide~~  
27 ~~or the need for hospitalization.~~

1 ~~—— (4) In developing an order under this section, the court shall~~  
2 ~~consider any preferences and medication experiences reported by the~~  
3 ~~subject of the petition or his or her designated representative,~~  
4 ~~whether or not the subject of the petition has an existing~~  
5 ~~individual plan of services under section 712, and any directions~~  
6 ~~included in a durable power of attorney or advance directive that~~  
7 ~~exists. If the subject of the petition has not previously executed~~  
8 ~~a durable power of attorney or an advance directive, the~~  
9 ~~responsible community mental health services program shall, before~~  
10 ~~the expiration of the assisted outpatient treatment order,~~  
11 ~~ascertain whether the subject of the petition desires to establish~~  
12 ~~an advance directive. If so, the community mental health services~~  
13 ~~program shall offer to provide assistance in developing an advance~~  
14 ~~directive.~~

15 ~~—— (5) If an assisted outpatient treatment order conflicts with~~  
16 ~~the provisions of an existing advance directive, durable power of~~  
17 ~~attorney, or individual plan of services developed under section~~  
18 ~~712, the assisted outpatient treatment order shall be reviewed for~~  
19 ~~possible adjustment by a psychiatrist not previously involved with~~  
20 ~~developing the assisted outpatient treatment order. If an assisted~~  
21 ~~outpatient treatment order conflicts with the provisions of an~~  
22 ~~existing advance directive, durable power of attorney, or~~  
23 ~~individual plan of services developed under section 712, the court~~  
24 ~~shall state the court's findings on the record or in writing if the~~  
25 ~~court takes the matter under advisement, including the reason for~~  
26 ~~the conflict.~~

27       Sec. 472a. (1) Upon the receipt of an application under

1 ~~section 423 or~~ **FILING OF** a petition under section 434 and a finding  
2 that an individual is a person requiring treatment, the court shall  
3 issue an initial order of involuntary mental health treatment that  
4 shall be limited in duration as follows:

5 (a) An initial order of hospitalization shall not exceed 60  
6 days.

7 (b) Except as provided in subdivision (d), an initial order of  
8 alternative treatment shall not exceed 90 days.

9 (c) Except as provided in subdivision (e), an initial order of  
10 combined hospitalization and alternative treatment shall not exceed  
11 90 days. The hospitalization portion of the initial order shall not  
12 exceed 60 days.

13 (d) An initial order of assisted outpatient treatment shall  
14 not exceed 180 days.

15 (e) An initial order of combined hospitalization and assisted  
16 outpatient treatment shall not exceed 180 days. The hospitalization  
17 portion of the initial order shall not exceed 60 days.

18 (2) Upon the receipt of a petition under section 473 before  
19 the expiration of an initial order under subsection (1) and a  
20 finding that the individual continues to be a person requiring  
21 treatment, the court shall issue a second order for involuntary  
22 mental health treatment that shall be limited in duration as  
23 follows:

24 (a) A second order of hospitalization shall not exceed 90  
25 days.

26 (b) A second order of alternative treatment or assisted  
27 outpatient treatment shall not exceed 1 year.

1 (c) A second order of combined hospitalization and alternative  
2 treatment or **HOSPITALIZATION AND** assisted outpatient treatment  
3 shall not exceed 1 year. The hospitalization portion of the second  
4 order shall not exceed 90 days.

5 (3) Upon the receipt of a petition under section 473 before  
6 the expiration of a second order under subsection (2) and a finding  
7 that the individual continues to be a person requiring treatment,  
8 the court shall issue a continuing order for involuntary mental  
9 health treatment that shall be limited in duration as follows:

10 (a) A continuing order of hospitalization shall not exceed 1  
11 year.

12 (b) A continuing order of alternative treatment or assisted  
13 outpatient treatment shall not exceed 1 year.

14 (c) A continuing order of combined hospitalization and  
15 alternative treatment or **HOSPITALIZATION AND** assisted outpatient  
16 treatment shall not exceed 1 year. The hospitalization portion of a  
17 continuing order for combined hospitalization and alternative  
18 treatment or **HOSPITALIZATION AND** assisted outpatient treatment  
19 shall not exceed 90 days.

20 (4) Upon the receipt of a petition under section 473 before  
21 the expiration of a continuing order of involuntary mental health  
22 treatment, including a continuing order issued under section 485a  
23 or a 1-year order of hospitalization issued under former section  
24 472, and a finding that the individual continues to be a person  
25 requiring treatment, the court shall issue another continuing order  
26 for involuntary mental health treatment as provided in subsection  
27 (3) for a period not to exceed 1 year. The court shall continue to

1 issue consecutive 1-year continuing orders for involuntary mental  
2 health treatment under this section until a continuing order  
3 expires without a petition having been filed under section 473 or  
4 the court finds that the individual is not a person requiring  
5 treatment.

6 (5) If a petition for an order of involuntary mental health  
7 treatment is not brought under section 473 at least 14 days before  
8 the expiration of an order of involuntary mental health treatment  
9 as described in subsections (2) to (4), a person who believes that  
10 an individual continues to be a person requiring treatment may file  
11 a petition under section 434 for an initial order of involuntary  
12 mental health treatment as described in subsection (1).

13 ~~—— (6) An individual who on March 28, 1996 was subject to an~~  
14 ~~order of continuing hospitalization for an indefinite period of~~  
15 ~~time shall be brought for hearing no later than 15 days after the~~  
16 ~~date of the second 6 month review that occurs after March 28, 1996.~~  
17 ~~If the court finds at the hearing that the individual continues to~~  
18 ~~be a person requiring treatment, the court shall enter a continuing~~  
19 ~~order of involuntary mental health treatment as described in~~  
20 ~~subsection (3).~~

21 Sec. 474. (1) If an individual is subject to a combined order  
22 of hospitalization and **EITHER** alternative treatment **OR ASSISTED**  
23 **OUTPATIENT TREATMENT**, the decision to release the individual from  
24 the hospital to the alternative treatment program **OR ASSISTED**  
25 **OUTPATIENT TREATMENT PROGRAM** shall be a clinical decision made by a  
26 psychiatrist designated by the hospital director in consultation  
27 with the director of the alternative program **OR THE ASSISTED**

1 **OUTPATIENT TREATMENT PROGRAM.** If the hospital is operated by or  
2 under contract with the department or a community mental health  
3 services program and private payment arrangements have not been  
4 made, the decision shall be made in consultation with the treatment  
5 team designated by the executive director of the community mental  
6 health services program. Notice of the return of the individual to  
7 the alternative treatment program **OR TO THE ASSISTED OUTPATIENT**  
8 **TREATMENT PROGRAM** shall be provided to the court with a statement  
9 from a psychiatrist explaining the belief that the individual is  
10 clinically appropriate for alternative treatment **OR ASSISTED**  
11 **OUTPATIENT TREATMENT.** At least 5 days before releasing an  
12 individual from the hospital to the alternative treatment program  
13 **OR ASSISTED OUTPATIENT TREATMENT PROGRAM,** the hospital director  
14 shall notify the agency or mental health professional that is  
15 responsible to supervise the individual's alternative treatment  
16 program **OR ASSISTED OUTPATIENT TREATMENT PROGRAM** that the  
17 individual is about to be released. The hospital shall share  
18 relevant information about the individual with the supervising  
19 agency or professional for the purpose of providing continuity of  
20 treatment.

21 (2) If there is a disagreement between the hospital and the  
22 executive director regarding the decision to release the individual  
23 to the alternative treatment program **OR ASSISTED OUTPATIENT**  
24 **TREATMENT PROGRAM,** either party may appeal in writing to the  
25 department director within 24 hours of the decision. The department  
26 director shall designate the psychiatrist responsible for clinical  
27 affairs in the department, or his or her designee, who shall also

1 be a psychiatrist, to consider the appropriateness of the release  
2 and make a decision within 48 hours after receipt of the written  
3 appeal. Either party may appeal the decision of the department to  
4 the court in writing within 24 hours ~~, excluding Sundays and~~  
5 ~~holidays,~~ after the department's decision.

6 (3) If private arrangements have been made for the  
7 reimbursement of mental health treatment services in an alternative  
8 setting and there is a disagreement between the hospital and the  
9 director of the alternative treatment program **OR ASSISTED**  
10 **OUTPATIENT TREATMENT PROGRAM** regarding the decision to release the  
11 individual, either party may petition the court for a determination  
12 of whether the individual should be released from the hospital to  
13 the alternative treatment program **OR ASSISTED OUTPATIENT TREATMENT**  
14 **PROGRAM.**

15 (4) The court shall make a decision within 48 hours ~~,~~  
16 ~~excluding Sundays and holidays,~~ after receipt of a written appeal  
17 under subsection (2) or a petition under subsection (3). The court  
18 shall consider information provided by both parties and may appoint  
19 a psychiatrist to provide an independent clinical examination.

20 Sec. 474a. During the period of an order of combined  
21 hospitalization and alternative treatment **OR COMBINED**  
22 **HOSPITALIZATION AND ASSISTED OUTPATIENT TREATMENT**, hospitalization  
23 may be used as clinically appropriate and when ordered by a  
24 psychiatrist, for up to the maximum period for hospitalization  
25 specified in the order. Subject to section 475, the decision to  
26 hospitalize the individual shall be made by the director of the  
27 alternative treatment program **OR ASSISTED OUTPATIENT TREATMENT**

1 **PROGRAM**, who shall notify the court when the individual is  
2 hospitalized. The notice to the court shall include a statement  
3 from a psychiatrist explaining the need for hospitalization.

4       Sec. 475. (1) During the period of an order for alternative  
5 treatment or combined hospitalization and alternative treatment, if  
6 the agency or mental health professional who is supervising an  
7 individual's alternative treatment program determines that the  
8 individual is not complying with the court order or that the  
9 alternative treatment has not been or will not be sufficient to  
10 prevent harm that the individual may inflict on himself or herself  
11 or upon others, then the supervising agency or mental health  
12 professional shall notify the court immediately. If the individual  
13 believes that the alternative treatment program is not appropriate,  
14 the individual may notify the court of that fact.

15       (2) If it comes to the attention of the court that an  
16 individual subject to an order of alternative treatment or combined  
17 hospitalization and alternative treatment is not complying with the  
18 order, that the alternative treatment has not been or will not be  
19 sufficient to prevent harm to the individual or to others, or that  
20 the individual believes that the alternative treatment program is  
21 not appropriate, the court may do either of the following without a  
22 hearing and based upon the record and other available information:

23       (a) Consider other alternatives to hospitalization and modify  
24 the order to direct the individual to undergo another program of  
25 alternative treatment for the duration of the order.

26       (b) Modify the order to direct the individual to undergo  
27 hospitalization or combined hospitalization and alternative

1 treatment. The duration of the hospitalization, including the  
2 number of days the individual has already been hospitalized if the  
3 order being modified is a combined order, shall not exceed 60 days  
4 for an initial order or 90 days for a second or continuing order.  
5 The modified order may provide that if the individual refuses to  
6 comply with the psychiatrist's order to return to the hospital, a  
7 peace officer shall take the individual into protective custody and  
8 transport the individual to the hospital selected.

9 (3) During the period of an order for assisted outpatient  
10 treatment **OR A COMBINATION OF HOSPITALIZATION AND ASSISTED**  
11 **OUTPATIENT TREATMENT**, if the agency or mental health professional  
12 who is supervising an individual's assisted outpatient treatment  
13 determines that the individual is not complying with the court  
14 order, the supervising agency or mental health professional shall  
15 notify the court immediately.

16 (4) If it comes to the attention of the court that an  
17 individual subject to an order of assisted outpatient treatment **OR**  
18 **A COMBINATION OF HOSPITALIZATION AND ASSISTED OUTPATIENT TREATMENT**  
19 is not complying with the order, the court may require 1 or more of  
20 the following, without a hearing:

21 (a) That the individual be taken to the preadmission screening  
22 unit established by the community mental health services program  
23 serving the community in which the individual resides.

24 (b) That the individual be hospitalized for a period of not  
25 more than 10 days.

26 (c) Upon recommendation by the community mental health  
27 services program serving the community in which the individual

1 resides, that the individual be hospitalized for a period of more  
2 than 10 days, but not longer than the duration of the order for  
3 assisted outpatient treatment **OR A COMBINATION OF HOSPITALIZATION**  
4 **AND ASSISTED OUTPATIENT TREATMENT**, or not longer than 90 days,  
5 whichever is less.

6 (5) The court may direct peace officers to transport the  
7 individual to a designated facility or a preadmission screening  
8 unit, as applicable, and the court may specify conditions under  
9 which the individual may return to assisted outpatient treatment  
10 before the order expires.

11 (6) An individual hospitalized without a hearing as provided  
12 in subsection (4) may object to the hospitalization according to  
13 the provisions of section 475a.

14 Enacting section 1. Sections 116a, 424, 428, and 433 of the  
15 mental health code, 1974 PA 258, MCL 330.1116a, 330.1424, 330.1428,  
16 and 330.1433, are repealed.

17 Enacting section 2. This amendatory act takes effect 90 days  
18 after the date it is enacted into law.