

**SUBSTITUTE FOR
HOUSE BILL NO. 5810**

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 100a, 400, 401, 409, 434, 435, 436, 438, 452,
455, 461, 464a, 468, 469a, 472a, 473, 474, 474a, 475, 475a, 477,
478, 482, and 489 (MCL 330.1100a, 330.1400, 330.1401, 330.1409,
330.1434, 330.1435, 330.1436, 330.1438, 330.1452, 330.1455,
330.1461, 330.1464a, 330.1468, 330.1469a, 330.1472a, 330.1473,
330.1474, 330.1474a, 330.1475, 330.1475a, 330.1477, 330.1478,
330.1482, and 330.1489), sections 100a, 401, 434, 435, 438, 452,
455, 461, 468, 469a, 472a, 474, 474a, and 475 as amended by 2016 PA
320, section 400 as amended by 2004 PA 553, section 409 as amended
by 2006 PA 306, section 436 as amended by 1995 PA 290, section 464a
as amended by 2014 PA 200, section 473 as amended by 2004 PA 498,
section 475a as added and section 482 as amended by 1996 PA 588,

and section 477 as amended by 1986 PA 117, and by adding section 308a.

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.
24 (j) Work.

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

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

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

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

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

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

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

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

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

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

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

26 (14) "Child and adolescent psychiatrist" means 1 or more of
27 the following:

1 (a) A physician who has completed a residency program in child
2 and adolescent psychiatry approved by the Accreditation Council for
3 Graduate Medical Education or the American Osteopathic Association,
4 or who has completed 12 months of child and adolescent psychiatric
5 rotation and is enrolled in an approved residency program as
6 described in this subsection.

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

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

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

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

24 (17) "Community mental health organization" means a community
25 mental health services program that is organized under the urban
26 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to
27 124.512.

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

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

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

15 (21) "Department" means the department of health and human
16 services.

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

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

26 (a) An adult foster care facility.

27 (b) A nursing home licensed under ~~article 17~~ **PART 217** of the

1 public health code, 1978 PA 368, MCL ~~333.20101 to~~
2 ~~333.22260.~~ **333.21701 TO 333.21799E.**

3 (c) A home for the aged licensed under ~~article 17~~ **PART 213** of
4 the public health code, 1978 PA 368, MCL ~~333.20101 to~~
5 ~~333.22260.~~ **333.21301 TO 333.21335.**

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

1 more 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~~
4 **ADMINISTRATIVE CODE** or in a program designed for the severely
5 mentally impaired or severely 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 has mental illness that has impaired his or
19 her judgment so that the individual is unable to understand his or
20 her need for treatment ~~, and that impaired judgment, on the basis~~
21 ~~of competent clinical opinion, presents a substantial risk of~~
22 ~~significant physical or mental harm to the individual in the near~~
23 ~~future or presents a substantial risk of significant physical harm~~
24 ~~to others in the near future.~~ **AND PRESENTS A RISK OF HARM.**

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. 308A. IF THERE IS AN INCREASE IN THE NUMBER OF PERSONS**
2 **REQUIRING TREATMENT UNDER SECTION 401 AFTER THE EFFECTIVE DATE OF**
3 **THE AMENDATORY ACT THAT ADDED THIS SECTION, THE STATE MUST PAY ALL**
4 **OF THE ADDITIONAL COSTS ASSOCIATED WITH THE INCREASE.**

5 Sec. 400. As used in this chapter, unless the context requires
6 otherwise:

7 (a) "Clinical certificate" means the written conclusion and
8 statements of a physician or a licensed psychologist that an
9 individual is a person requiring treatment, together with the
10 information and opinions, in reasonable detail, that underlie the
11 conclusion, on the form prescribed by the department or on a
12 substantially similar form.

13 (b) "Competent clinical opinion" means the clinical judgment
14 of a physician, psychiatrist, or licensed psychologist.

15 (c) "Court" means the probate court or the court with
16 responsibility with regard to mental health services for the county
17 of residence of the subject of a petition, or for the county in
18 which the subject of a petition was found.

19 (d) "Formal voluntary hospitalization" means hospitalization
20 of an individual based on both of the following:

21 (i) The execution of an application for voluntary
22 hospitalization by the individual or by a patient advocate
23 designated under the estates and protected individuals code, 1998
24 PA 386, MCL 700.1101 to ~~700.8102~~, **700.8206**, to make mental health
25 treatment decisions for the individual.

26 (ii) The hospital director's determination that the individual
27 is clinically suitable for voluntary hospitalization.

1 (e) "Informal voluntary hospitalization" means hospitalization
2 of an individual based on all of the following:

3 (i) The individual's request for hospitalization.

4 (ii) The hospital director's determination that the individual
5 is clinically suitable for voluntary hospitalization.

6 (iii) The individual's agreement to accept treatment.

7 (f) "Involuntary mental health treatment" means court-ordered
8 hospitalization, ~~alternative~~**ASSISTED OUTPATIENT** treatment, or
9 combined hospitalization and ~~alternative~~**ASSISTED OUTPATIENT**
10 treatment as described in section 468.

11 (g) "Mental illness" means a substantial disorder of thought
12 or mood that significantly impairs judgment, behavior, capacity to
13 recognize reality, or ability to cope with the ordinary demands of
14 life.

15 (h) "Preadmission screening unit" means a service component of
16 a community mental health services program established under
17 section 409.

18 (i) "Private-pay patient" means a patient whose services and
19 care are paid for from funding sources other than the community
20 mental health services program, the department, or other state or
21 county funding.

22 (j) "Release" means the transfer of an individual who is
23 subject to an order of combined hospitalization and ~~alternative~~
24 **ASSISTED OUTPATIENT** treatment from 1 treatment program to another
25 in accordance with his or her individual plan of services.

26 (k) "Subject of a petition" means an individual regarding whom
27 a petition has been filed with the court asserting that the

1 individual is or is not a person requiring treatment or for whom an
2 objection to involuntary mental health treatment has been made
3 under section 484.

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

6 (a) An individual who has mental illness, and who as a result
7 of that mental illness can reasonably be expected within the near
8 future to intentionally or unintentionally seriously physically
9 injure himself, herself, or another individual, and who has engaged
10 in an act or acts or made significant threats that are
11 substantially supportive of the expectation.

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

18 (c) An individual who has mental illness, whose judgment is so
19 impaired by that mental illness that he or she is unable to
20 understand his or her need for treatment, and whose impaired
21 judgment, on the basis of competent clinical opinion, presents a
22 substantial risk of ~~significant physical or mental harm. to the~~
23 ~~individual in the near future or presents a substantial risk of~~
24 ~~physical harm to others in the near future.~~

25 ~~—— (d) An individual who has mental illness, whose understanding~~
26 ~~of the need for treatment is impaired to the point that he or she~~
27 ~~is unlikely to voluntarily participate in or adhere to treatment~~

~~1 that has been determined necessary to prevent a relapse or harmful
2 deterioration of his or her condition, and whose noncompliance with
3 treatment has been a factor in the individual's placement in a
4 psychiatric hospital, prison, or jail at least 2 times within the
5 last 48 months or whose noncompliance with treatment has been a
6 factor in the individual's committing 1 or more acts, attempts, or
7 threats of serious violent behavior within the last 48 months. An
8 individual under this subdivision is only eligible to receive
9 assisted outpatient treatment.~~

10 (D) AN INDIVIDUAL WHO HAS MENTAL ILLNESS, WHOSE UNDERSTANDING
11 OF THE NEED FOR TREATMENT HAS CAUSED HIM OR HER TO DEMONSTRATE AN
12 UNWILLINGNESS TO VOLUNTARILY PARTICIPATE IN OR ADHERE TO TREATMENT
13 THAT, ON THE BASIS OF COMPETENT CLINICAL OPINION, IS NECESSARY TO
14 PREVENT A RELAPSE OR HARMFUL DETERIORATION OF HIS OR HER CONDITION,
15 AND WHOSE UNWILLINGNESS TO VOLUNTARILY PARTICIPATE IN OR ADHERE TO
16 TREATMENT PRESENTS A SUBSTANTIAL CURRENT OR FUTURE RISK OF
17 SIGNIFICANT PHYSICAL OR MENTAL HARM TO THE INDIVIDUAL OR PHYSICAL
18 HARM TO OTHERS.

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. 409. (1) Each community mental health services program
2 shall establish 1 or more preadmission screening units with 24-hour
3 availability to provide assessment and screening services for
4 individuals being considered for admission into hospitals or
5 ~~alternative~~ **ASSISTED OUTPATIENT** treatment programs. The community
6 mental health services program shall employ mental health
7 professionals or licensed bachelor's social workers licensed under
8 ~~article 15~~ **PART 185** of the public health code, 1978 PA 368, MCL
9 ~~333.16101 to 333.18838,~~ **333.18501 TO 333.18518**, to provide the
10 preadmission screening services or contract with another agency
11 that meets the requirements of this section. Preadmission screening
12 unit staff shall be supervised by a registered professional nurse
13 or other mental health professional possessing at least a master's
14 degree.

15 (2) Each community mental health services program shall
16 provide the address and telephone number of its preadmission
17 screening unit or units to law enforcement agencies, the
18 department, the court, and hospital emergency rooms.

19 (3) A preadmission screening unit shall assess an individual
20 being considered for admission into a hospital operated by the
21 department or under contract with the community mental health
22 services program. If the individual is clinically suitable for
23 hospitalization, the preadmission screening unit shall authorize
24 voluntary admission to the hospital.

25 (4) If the preadmission screening unit of the community mental
26 health services program denies hospitalization, the individual or
27 the person making the application may request a second opinion from

1 the executive director. The executive director shall arrange for an
2 additional evaluation by a psychiatrist, other physician, or
3 licensed psychologist to be performed within 3 days, excluding
4 Sundays and legal holidays, after the executive director receives
5 the request. If the conclusion of the second opinion is different
6 from the conclusion of the preadmission screening unit, the
7 executive director, in conjunction with the medical director, shall
8 make a decision based on all clinical information available. The
9 executive director's decision shall be confirmed in writing to the
10 individual who requested the second opinion, and the confirming
11 document shall include the signatures of the executive director and
12 medical director or verification that the decision was made in
13 conjunction with the medical director. If an individual is assessed
14 and found not to be clinically suitable for hospitalization, the
15 preadmission screening unit shall provide appropriate referral
16 services.

17 (5) If an individual is assessed and found not to be
18 clinically suitable for hospitalization, the preadmission screening
19 unit shall provide information regarding alternative services and
20 the availability of those services, and make appropriate referrals.

21 (6) A preadmission screening unit shall assess and examine, or
22 refer to a hospital for examination, an individual who is brought
23 to the unit by a peace officer or ordered by a court to be
24 examined. If the individual meets the requirements for
25 hospitalization, the preadmission screening unit shall designate
26 the hospital to which the individual shall be admitted. The
27 preadmission screening unit shall consult with the individual and,

1 if the individual agrees, it shall consult with the individual's
2 family member of choice, if available, as to the preferred hospital
3 for admission of the individual.

4 (7) If the individual chooses a hospital not under contract
5 with a community mental health services program, and the hospital
6 agrees to the admission, the preadmission screening unit shall
7 refer the individual to the hospital that is requested by the
8 individual. Any financial obligation for the services provided by
9 the hospital shall be satisfied from funding sources other than the
10 community mental health services program, the department, or other
11 state or county funding.

12 Sec. 434. (1) Any individual 18 years of age or over may file
13 with the court a petition that asserts that an individual is a
14 person requiring treatment.

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

20 (3) Except as provided in subsection (7), the petition shall
21 be accompanied by the clinical certificate of a physician or a
22 licensed psychologist, unless after reasonable effort the
23 petitioner could not secure an examination. If a clinical
24 certificate does not accompany the petition, ~~an affidavit setting~~
25 **THE PETITIONER SHALL SET** forth the reasons an examination could not
26 be secured ~~shall also be filed.~~ **WITHIN THE PETITION.** The petition
27 may also be accompanied by a second clinical certificate. If 2

1 clinical certificates accompany the petition, at least 1 clinical
2 certificate ~~shall~~**MUST** have been executed by a psychiatrist.

3 (4) Except as otherwise provided in subsection (7) and section
4 455, a clinical certificate that accompanies a petition ~~shall~~**MUST**
5 have been executed within 72 hours before the filing of the
6 petition, and after personal examination of the individual.

7 (5) If the individual is found not to be a person requiring
8 treatment under this section, the petition and any clinical
9 certificate shall be maintained by the court as a confidential
10 record to prevent disclosure to any person who is not specifically
11 authorized under this chapter to receive notice of the petition or
12 clinical certificate.

13 (6) The petition described in this section may assert that the
14 subject of the petition should receive assisted outpatient
15 treatment in accordance with section ~~468(2)(e)~~**.468(2)(D)**.

16 (7) A petition that does not seek hospitalization but only
17 requests that the subject of the petition receive assisted
18 outpatient treatment is not subject to subsection (3) or (4).

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

22 (2) If the petition is not accompanied by a clinical
23 certificate, and if the court is satisfied a reasonable effort was
24 made to secure an examination, the court shall order the individual
25 to be examined by a psychiatrist and either a physician or a
26 licensed psychologist.

27 (3) The individual may be received and detained at the place

1 of examination as long as necessary to complete the examination or
2 examinations, but not more than 24 hours.

3 (4) After an examination ordered under subsection (1), the
4 examining psychiatrist shall either transmit a clinical certificate
5 to the court or report to the court that execution of a clinical
6 certificate is not warranted. After each examination ordered under
7 subsection (2), the examining psychiatrist, or the examining
8 physician or licensed psychologist, as applicable, shall either
9 transmit a clinical certificate to the court or report to the court
10 that execution of a clinical certificate is not warranted.

11 (5) If 1 examination was ordered and the examining
12 psychiatrist reports that execution of a clinical certificate is
13 not warranted, or if 2 examinations were ordered and 1 of the
14 examining physicians or the licensed psychologist reports that
15 execution of a clinical certificate is not warranted, the court
16 shall dismiss the petition or order the individual to be examined
17 by a psychiatrist, or if a psychiatrist is not available, by a
18 physician or licensed psychologist. If a third examination report
19 states that execution of a clinical certificate is not warranted,
20 the court shall dismiss the petition.

21 (6) This section does not apply to a petition filed under
22 section ~~434(6)~~-**434(7)**.

23 Sec. 436. **(1)** If it appears to the court that the individual
24 will not comply with an order of examination under section 435, the
25 court may order a peace officer to take the individual into
26 protective custody and transport him or her to a preadmission
27 screening unit or hospital designated by the community mental

1 health services program or to another suitable place for the
2 ordered examination or examinations.

3 **(2) A COURT ORDER FOR A PEACE OFFICER TO TAKE AN INDIVIDUAL**
4 **INTO PROTECTIVE CUSTODY AND TRANSPORT THE INDIVIDUAL AS DESCRIBED**
5 **IN SUBSECTION (1) MUST BE EXECUTED WITHIN 10 DAYS AFTER THE COURT**
6 **ENTERS THE ORDER. IF THE ORDER IS NOT EXECUTED WITHIN 10 DAYS AFTER**
7 **THE COURT ENTERS THE ORDER, THE LAW ENFORCEMENT AGENCY MUST REPORT**
8 **TO THE COURT THE REASON THE ORDER WAS NOT EXECUTED WITHIN THE**
9 **PRESCRIBED TIME PERIOD.**

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

27 Sec. 452. (1) The court shall fix a date for every hearing

1 convened under this chapter. Except as provided in subsection (2),
2 the hearing shall be convened promptly, but not more than 7 days
3 after the court's receipt of any of the following:

4 (a) A petition for a determination that an individual is a
5 person requiring treatment, a clinical certificate executed by a
6 physician or a licensed psychologist, and a clinical certificate
7 executed by a psychiatrist.

8 (b) A petition for a determination that an individual
9 continues to be a person requiring treatment and a clinical
10 certificate executed by a psychiatrist.

11 (c) A petition for discharge filed under section 484.

12 (d) A demand or notification that a hearing that has been
13 temporarily deferred under section 455(6) be convened.

14 (2) A hearing for a petition under section ~~434(6)~~**434(7)** shall
15 be convened not more than 28 days after the filing of the petition,
16 unless the petition was filed while the subject of the petition was
17 an inpatient at a psychiatric hospital, in which case the hearing
18 shall be convened within 7 days of the filing of the petition.

19 Sec. 455. (1) The subject of a petition has the right to be
20 present at all hearings. This right may be waived by a waiver of
21 attendance signed by the subject of a petition, witnessed by his or
22 her legal counsel, and filed with the court or it may be waived in
23 open court at a scheduled hearing. The subject's right to be
24 present at a hearing is considered waived by the subject's failure
25 to attend the hearing after receiving notice required by section
26 453 and any applicable court rule, providing the subject has had an
27 opportunity to consult with counsel as required under section 454.

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

9 (2) The subject of the petition under section 434, after
10 consultation with counsel, may stipulate to the entry of any order
11 for treatment.

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

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

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

24 (c) The proposed plan of treatment in the community consisting
25 of either an alternative to hospitalization or a combination of
26 hospitalization and ~~alternative~~ **ASSISTED OUTPATIENT** treatment with
27 hospitalization not to exceed 60 days.

1 (d) The right to request that the hearing be temporarily
2 deferred, with a continuing right to demand a hearing during the
3 deferral period. The deferral period shall be 60 days if the
4 individual chooses to remain hospitalized, or ~~90~~**180** days if the
5 individual chooses ~~alternative~~**OUTPATIENT** treatment or a
6 combination of hospitalization and ~~alternative treatment~~.

7 **OUTPATIENT TREATMENT.**

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

12 (5) The hospital in which the subject of a petition under
13 section 434 is hospitalized shall notify the participants of the
14 meeting required by subsection (3).

15 (6) The subject of a petition under section 434 ~~who is~~
16 ~~hospitalized pending the court hearing~~ may file with the court a
17 request to temporarily defer the hearing for not longer than 60
18 days if the individual chooses to remain hospitalized, or ~~90~~**180**
19 days if the individual chooses ~~alternative~~**OUTPATIENT** or
20 a combination of hospitalization and ~~alternative~~**OUTPATIENT**
21 treatment. The request shall include a stipulation that the
22 individual agrees to remain hospitalized and to accept treatment as
23 may be prescribed for the deferral period, ~~or~~ to accept and follow
24 the proposed plan of treatment as described in subsection (3)(c)
25 for the deferral period, **OR TO ACCEPT AND FOLLOW THE PROPOSED PLAN**
26 **FOR OUTPATIENT TREATMENT**, and further agrees that at any time the
27 individual may refuse treatment and demand a hearing under section

1 452. The request to temporarily defer the hearing shall be on a
2 form provided by the department and signed by the individual in the
3 presence of his or her legal counsel and shall be filed with the
4 court by legal counsel.

5 (7) Upon receipt of the request and stipulation under
6 subsection (6), the court shall temporarily defer the hearing.
7 During the deferral period, both the original petition and the
8 clinical certificates remain valid. If the hearing is convened, the
9 court may require additional clinical certificates and information
10 from the provider. The court shall retain continuing jurisdiction
11 during the deferral period.

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

23 (9) Upon receipt of a copy of the request to temporarily defer
24 the hearing under subsection (6), if the individual has agreed to
25 participate in an alternative to hospitalization in the community,
26 the hospital director shall release the individual from the
27 hospital to the ~~alternative~~**OUTPATIENT** 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(1)(d). Upon notification, the
5 court shall, if necessary, order a peace officer to transport the
6 individual to the hospital where the individual shall remain until
7 the hearing is convened. The individual shall be given the status
8 of the subject of a petition under section 434.

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

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

1 treatment, the executive director shall notify the court to convene
2 a hearing under section 452(1)(d).

3 Sec. 461. (1) ~~Except as otherwise provided in this section, an~~
4 **AN** individual may not be found to require treatment unless at least
5 1 physician or licensed psychologist who has personally examined
6 that individual testifies in person or by written deposition at the
7 hearing.

8 (2) For a petition filed under section ~~434(6) that was not~~
9 ~~accompanied by, or that has not subsequently been supplemented by,~~
10 ~~a psychiatrist's clinical certificate, 434(7),~~ an individual may
11 not be found to require treatment unless at least 1 physician, ~~or~~
12 licensed psychologist, ~~and 1~~**OR** psychiatrist who ~~have~~**HAS**
13 personally examined that individual ~~testify~~**TESTIFIES** in person or
14 by written deposition at the hearing. **THE REQUIREMENT FOR TESTIMONY**
15 **GIVEN IN PERSON OR BY WRITTEN DEPOSITION MAY BE WAIVED BY THE**
16 **SUBJECT OF THE PETITION. IF THE TESTIMONY GIVEN IN PERSON OR BY**
17 **WRITTEN DEPOSITION IS WAIVED, A CLINICAL CERTIFICATE COMPLETED BY A**
18 **PHYSICIAN, LICENSED PSYCHOLOGIST, OR PSYCHIATRIST MUST BE PRESENTED**
19 **TO THE COURT BEFORE OR AT THE INITIAL HEARING.**

20 (3) The examinations required under this section for a
21 petition filed under section ~~434(6)~~**434(7)** shall be arranged by the
22 court and the local community mental health services program or
23 other entity as designated by the department.

24 (4) A written deposition may be introduced as evidence at the
25 hearing only if the attorney for the subject of the petition was
26 given the opportunity to be present during the taking of the
27 deposition and to cross-examine the deponent. This testimony or

1 deposition may be waived by the subject of a petition. An
2 individual may be found to require treatment even if the petitioner
3 does not testify, as long as there is competent evidence from which
4 the relevant criteria in section 401 can be established.

5 Sec. 464a. (1) Upon entry of a court order directing that an
6 individual be involuntarily hospitalized under this chapter or that
7 an individual involuntarily undergo a program of ~~alternative~~
8 ~~treatment or a program of~~ combined hospitalization and ~~alternative~~
9 **ASSISTED OUTPATIENT** treatment under this chapter, the court shall
10 immediately order the department of state police to enter the court
11 order into the law enforcement information network. The department
12 of state police shall remove the court order from the law
13 enforcement information network only upon receipt of a subsequent
14 court order for that removal.

15 (2) The department of state police shall immediately enter an
16 order described in subsection (1) into the law enforcement
17 information network or shall immediately remove an order from the
18 law enforcement information network as ordered by the court under
19 this section.

20 (3) This section does not apply to an order of involuntary
21 treatment for substance use disorder under chapter 2A.

22 Sec. 468. (1) For a petition filed under section 434, if the
23 court finds that an individual is not a person requiring treatment,
24 the court shall enter a finding to that effect and, if the person
25 has been hospitalized before the hearing, shall order that the
26 person be discharged immediately.

27 (2) For a petition filed under section 434, if an individual

1 is found to be a person requiring treatment, the court shall do 1
2 of the following:

3 (a) Order the individual hospitalized in a hospital
4 recommended by the community mental health services program or
5 other entity as designated by the department.

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

14 ~~—— (c) Order the individual to undergo a program of treatment~~
15 ~~that is an alternative to hospitalization and that is recommended~~
16 ~~by the community mental health services program or other entity as~~
17 ~~designated by the department.~~

18 (C) ~~(d)~~ Order the individual to undergo a program of combined
19 ~~hospitalization and alternative treatment or hospitalization and~~
20 assisted outpatient treatment, as recommended by the community
21 mental health services program or other entity as designated by the
22 department.

23 (D) ~~(e)~~ Order the individual to receive assisted outpatient
24 treatment through a community mental health services program, or
25 other entity as designated by the department, capable of providing
26 the necessary treatment and services to assist the individual to
27 live and function in the community as specified in the order. The

1 court may include **A** case management **PLAN AND CASE MANAGEMENT**
2 services and 1 or more of the following:

3 (i) Medication.

4 (ii) Blood or urinalysis tests to determine compliance with or
5 effectiveness of prescribed medication.

6 (iii) Individual or group therapy, or both.

7 (iv) Day or partial day programs.

8 (v) Educational or vocational training.

9 (vi) Supervised living.

10 (vii) ~~Assisted~~**ASSERTIVE** community treatment team services.

11 (viii) Substance use disorder treatment.

12 (ix) Substance use disorder testing for individuals with a
13 history of alcohol or substance use and for whom that testing is
14 necessary to assist the court in ordering treatment designed to
15 prevent deterioration. A court order for substance use testing is
16 subject to review **HEARING** once every 180 days.

17 (x) Any other services prescribed to treat the individual's
18 mental illness and either to assist the individual in living and
19 functioning in the community or to help prevent a relapse or
20 deterioration that may reasonably be predicted to result in suicide
21 or the need for hospitalization.

22 **(3) IN DEVELOPING AN ASSISTED OUTPATIENT TREATMENT PLAN, A**
23 **PSYCHIATRIST SHALL SUPERVISE THE PREPARATION AND IMPLEMENTATION OF**
24 **THE ASSISTED OUTPATIENT TREATMENT PLAN. THE ASSISTED OUTPATIENT**
25 **TREATMENT PLAN SHALL BE COMPLETED WITHIN 30 DAYS AFTER ENTRY OF THE**
26 **COURT'S ORDER OF ASSISTED OUTPATIENT TREATMENT AND A COPY SHALL BE**
27 **FORWARDED TO THE PROBATE COURT FOR FILING WITHIN 3 DAYS AFTER**

1 COMPLETION OF THE PLAN TO BE MAINTAINED IN THE COURT FILE.

2 **(4)** ~~(3)~~—In developing an assisted outpatient treatment order,
3 the court shall consider any preference or medication experience
4 reported by the individual or his or her designated representative,
5 whether or not the individual has an existing individual plan of
6 services under section 712, and any direction included in a durable
7 power of attorney or advance directive that exists.

8 **(5)** ~~(4)~~—Before an order of assisted outpatient treatment
9 expires, if the individual has not previously designated a patient
10 advocate or executed a durable power of attorney or an advance
11 directive, the responsible community mental health services program
12 or other entity as designated by the department shall ascertain
13 whether the individual desires to establish a durable power of
14 attorney or an advance directive. If so, the community mental
15 health services program or other entity as designated by the
16 department shall direct the individual to the appropriate community
17 resource for assistance in developing a durable power of attorney
18 or an advance directive.

19 **(6)** ~~(5)~~—If an order for assisted outpatient treatment
20 conflicts with the provisions of an existing durable power of
21 attorney, advance directive, or individual plan of services
22 developed under section 712, the assisted outpatient treatment
23 order shall be reviewed for possible adjustment by a psychiatrist
24 not previously involved with developing the assisted outpatient
25 treatment order. If an order for assisted outpatient treatment
26 conflicts with the provisions of an existing advance directive,
27 durable power of attorney, or individual plan of services developed

1 under section 712, the court shall state the court's findings on
2 the record or in writing if the court takes the matter under
3 advisement, including the reason for the conflict.

4 Sec. 469a. (1) Except for a petition filed as described under
5 section ~~434(6)~~, **434(7)**, before ordering a course of treatment for
6 an individual found to be a person requiring treatment, the court
7 shall review a report on alternatives to hospitalization that was
8 prepared under section 453a not more than 15 days before the court
9 issues the order. After reviewing the report, the court shall do
10 all of the following:

11 (a) Determine whether a treatment program that is an
12 alternative to hospitalization or that follows an initial period of
13 hospitalization is adequate to meet the individual's treatment
14 needs and is sufficient to prevent harm that the individual may
15 inflict upon himself or herself or upon others within the near
16 future.

17 (b) Determine whether there is an agency or mental health
18 professional available to supervise the individual's ~~alternative~~
19 treatment program.

20 (c) Inquire as to the individual's desires regarding
21 alternatives to hospitalization.

22 (2) If the court determines that there is a treatment program
23 that is an alternative to hospitalization that is adequate to meet
24 the individual's treatment needs and prevent harm that the
25 individual may inflict upon himself or herself or upon others
26 within the near future and that an agency or mental health
27 professional is available to supervise the program, the court shall

1 issue an order for ~~alternative~~ **ASSISTED OUTPATIENT** treatment or
2 combined hospitalization and ~~alternative~~ **ASSISTED OUTPATIENT**
3 treatment in accordance with section 472a. The order shall state
4 the community mental health services program or, if private
5 arrangements have been made for the reimbursement of mental health
6 treatment services in an alternative setting, the name of the
7 mental health agency or professional that is directed to supervise
8 the individual's ~~alternative~~ **ASSISTED OUTPATIENT** treatment program.
9 The order may provide that if an individual refuses to comply with
10 a psychiatrist's order to return to the hospital, a peace officer
11 shall take the individual into protective custody and transport the
12 individual to the hospital selected.

13 (3) If the court orders assisted outpatient treatment as the
14 alternative to hospitalization, the order shall be consistent with
15 the provisions of section ~~468(2)(e)~~ **468(2)(D)** .

16 Sec. 472a. (1) Upon the filing of a petition under section 434
17 and a finding that an individual is a person requiring treatment,
18 the court shall issue an initial order of involuntary mental health
19 treatment that shall be limited in duration as follows:

20 (a) An initial order of hospitalization shall not exceed 60
21 days.

22 ~~— (b) Except as provided in subdivision (d), an initial order of~~
23 ~~alternative treatment shall not exceed 90 days.~~

24 ~~— (c) Except as provided in subdivision (c), an initial order of~~
25 ~~combined hospitalization and alternative treatment shall not exceed~~
26 ~~90 days. The hospitalization portion of the initial order shall not~~
27 ~~exceed 60 days.~~

1 **(B)** ~~(d)~~—An initial order of assisted outpatient treatment
2 shall not exceed 180 days.

3 **(C)** ~~(e)~~—An initial order of combined hospitalization and
4 assisted outpatient treatment shall not exceed 180 days. The
5 hospitalization portion of the initial order shall not exceed 60
6 days.

7 (2) Upon the receipt of a petition under section 473 before
8 the expiration of an initial order under subsection (1) and a
9 finding that the individual continues to be a person requiring
10 treatment, the court shall issue a second order for involuntary
11 mental health treatment that shall ~~be limited in duration as~~
12 ~~follows:~~

13 ~~—— (a) A second order of hospitalization shall not exceed 90~~
14 ~~days.~~

15 ~~—— (b) A second order of alternative treatment or assisted~~
16 ~~outpatient treatment shall not exceed 1 year.~~

17 ~~—— (c) A second order of combined hospitalization and alternative~~
18 ~~treatment or hospitalization and assisted outpatient treatment~~
19 ~~shall not exceed 1 year. The hospitalization portion of the second~~
20 ~~order shall not exceed 90 days.~~

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

26 ~~—— (a) A continuing order of hospitalization shall not exceed 1~~
27 ~~year.~~

1 ~~—— (b) A continuing order of alternative treatment or assisted~~
2 ~~outpatient treatment shall not exceed 1 year.~~

3 ~~—— (c) A continuing order of combined hospitalization and~~
4 ~~alternative treatment or hospitalization and assisted outpatient~~
5 ~~treatment shall not exceed 1 year. The hospitalization portion of a~~
6 ~~continuing order for combined hospitalization and alternative~~
7 ~~treatment or hospitalization and assisted outpatient treatment~~
8 ~~shall not exceed 90 days.~~

9 (4) Upon the receipt of a petition under section 473 before
10 the expiration of a continuing order of involuntary mental health
11 treatment, including a continuing order issued under section 485a
12 or a 1-year order of hospitalization issued under former section
13 472, and a finding that the individual continues to be a person
14 requiring treatment, the court shall issue another continuing order
15 for involuntary mental health treatment as provided in subsection
16 (3) for a period not to exceed 1 year. The court shall continue to
17 issue consecutive 1-year continuing orders for involuntary mental
18 health treatment under this section until a continuing order
19 expires without a petition having been filed under section 473 or
20 the court finds that the individual is not a person requiring
21 treatment.

22 (5) If a petition for an order of involuntary mental health
23 treatment is not brought under section 473 at least 14 days before
24 the expiration of an order of involuntary mental health treatment
25 as described in subsections (2) to (4), a person who believes that
26 an individual continues to be a person requiring treatment may file
27 a petition under section 434 for an initial order of involuntary

1 mental health treatment as described in subsection (1).

2 Sec. 473. Not less than 14 days before the expiration of an
3 initial, second, or continuing order of involuntary mental health
4 treatment issued under section 472a or section 485a, a hospital
5 director or an agency or mental health professional supervising an
6 individual's ~~alternative treatment or~~ assisted outpatient treatment
7 shall file a petition for a second or continuing order of
8 involuntary mental health treatment if the hospital director or
9 supervisor believes the individual continues to be a person
10 requiring treatment and that the individual is likely to refuse
11 treatment on a voluntary basis when the order expires. The petition
12 shall contain a statement setting forth the reasons for the
13 hospital director's or supervisor's or their joint determination
14 that the individual continues to be a person requiring treatment, a
15 statement describing the treatment program provided to the
16 individual, the results of that course of treatment, and a clinical
17 estimate as to the time further treatment will be required. The
18 petition shall be accompanied by a clinical certificate executed by
19 a psychiatrist.

20 Sec. 474. (1) If an individual is subject to a combined order
21 of hospitalization and ~~either alternative treatment or~~ assisted
22 outpatient treatment, the decision to release the individual from
23 the hospital to the ~~alternative treatment program or~~ assisted
24 outpatient treatment program shall be a clinical decision made by a
25 psychiatrist designated by the hospital director in consultation
26 with the director of the ~~alternative treatment program or the~~
27 assisted outpatient treatment program. ~~If the hospital is operated~~

1 ~~by or under contract with the department or a community mental~~
2 ~~health services program and private payment arrangements have not~~
3 ~~been made, the decision shall be made in consultation with the~~
4 ~~treatment team designated by the executive director of the~~
5 ~~community mental health services program.~~ **IF AN INDIVIDUAL IS**
6 **SUBJECT TO AN ORDER OF ASSISTED OUTPATIENT TREATMENT, THE DECISION**
7 **TO RELEASE THE INDIVIDUAL FROM THE ASSISTED OUTPATIENT TREATMENT**
8 **PROGRAM SHALL BE A CLINICAL DECISION MADE BY A PSYCHIATRIST**
9 **DESIGNATED BY THE DIRECTOR OF THE ASSISTED OUTPATIENT TREATMENT**
10 **PROGRAM.** Notice of the return of the individual to the ~~alternative~~
11 ~~treatment program or to the~~ assisted outpatient treatment program
12 shall be provided to the court with a statement from a psychiatrist
13 explaining the belief that the individual is clinically appropriate
14 for ~~alternative treatment or~~ assisted outpatient treatment. At
15 least 5 days before releasing an individual from the hospital to
16 the ~~alternative treatment program or~~ assisted outpatient treatment
17 program, the hospital director shall notify the agency or mental
18 health professional that is responsible to supervise the
19 individual's ~~alternative treatment program or~~ assisted outpatient
20 treatment program that the individual is about to be released. The
21 hospital shall share relevant information about the individual with
22 the supervising agency or professional for the purpose of providing
23 continuity of treatment.

24 (2) If there is a disagreement between the hospital and the
25 executive director regarding the decision to release the individual
26 to the ~~alternative treatment program or~~ assisted outpatient
27 treatment program, either party may appeal in writing to the

1 department director within 24 hours of the decision. The department
2 director shall designate the psychiatrist responsible for clinical
3 affairs in the department, or his or her designee, who shall also
4 be a psychiatrist, to consider the appropriateness of the release
5 and make a decision within 48 hours after receipt of the written
6 appeal. Either party may appeal the decision of the department to
7 the court in writing within 24 hours after the department's
8 decision.

9 (3) If private arrangements have been made for the
10 reimbursement of mental health treatment services in an alternative
11 setting and there is a disagreement between the hospital and the
12 director of the ~~alternative treatment program or~~ assisted
13 outpatient treatment program regarding the decision to release the
14 individual, either party may petition the court for a determination
15 of whether the individual should be released from the hospital to
16 the ~~alternative treatment program or~~ assisted outpatient treatment
17 program.

18 (4) The court shall make a decision within 48 hours after
19 receipt of a written appeal under subsection (2) or a petition
20 under subsection (3). The court shall consider information provided
21 by both parties and may appoint a psychiatrist to provide an
22 independent clinical examination.

23 Sec. 474a. During the period of an order of combined
24 hospitalization and ~~alternative~~ **ASSISTED OUTPATIENT** treatment or
25 combined hospitalization and assisted outpatient treatment,
26 hospitalization may be used as clinically appropriate and when
27 ordered by a psychiatrist, for up to the maximum period for

1 hospitalization specified in the order. Subject to section 475, the
2 decision to hospitalize the individual shall be made by the
3 director of the ~~alternative treatment program or~~ assisted
4 outpatient treatment program, who shall notify the court when the
5 individual is hospitalized. The notice to the court shall include a
6 statement from a psychiatrist explaining the need for
7 hospitalization.

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

21 (2) If it comes to the attention of the court that an
22 individual subject to an order of ~~alternative~~**ASSISTED OUTPATIENT**
23 treatment or combined hospitalization and ~~alternative~~**ASSISTED**
24 **OUTPATIENT** treatment is not complying with the order, that the
25 ~~alternative~~**ASSISTED OUTPATIENT** treatment has not been or will not
26 be sufficient to prevent harm to the individual or to others, or
27 that the individual believes that the ~~alternative~~**ASSISTED**

1 **OUTPATIENT** treatment program is not appropriate, the court may do
2 either of the following without a hearing and based upon the record
3 and other available information:

4 (a) Consider other alternatives to hospitalization and modify
5 the order to direct the individual to undergo another program of
6 ~~alternative~~**ASSISTED OUTPATIENT** treatment for the duration of the
7 order.

8 (b) Modify the order to direct the individual to undergo
9 hospitalization or combined hospitalization and ~~alternative~~
10 **ASSISTED OUTPATIENT** treatment. The duration of the hospitalization,
11 including the number of days the individual has already been
12 hospitalized if the order being modified is a combined order, shall
13 not exceed 60 days for an initial order or 90 days for a second or
14 continuing order. The modified order may provide that if the
15 individual refuses to comply with the psychiatrist's order to
16 return to the hospital, a peace officer shall take the individual
17 into protective custody and transport the individual to the
18 hospital selected.

19 (3) During the period of an order for assisted outpatient
20 treatment or a combination of hospitalization and assisted
21 outpatient treatment, if the agency or mental health professional
22 who is supervising an individual's assisted outpatient treatment
23 determines that the individual is not complying with the court
24 order, the supervising agency or mental health professional shall
25 notify the court immediately.

26 (4) If it comes to the attention of the court that an
27 individual subject to an order of assisted outpatient treatment or

1 a combination of hospitalization and assisted outpatient treatment
2 is not complying with the order, the court may require 1 or more of
3 the following, without a hearing:

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

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

9 (c) Upon recommendation by the community mental health
10 services program serving the community in which the individual
11 resides, that the individual be hospitalized for a period of more
12 than 10 days, but not longer than the duration of the order for
13 assisted outpatient treatment or a combination of hospitalization
14 and assisted outpatient treatment, or not longer than 90 days,
15 whichever is less.

16 (5) The court may direct peace officers to transport the
17 individual to a designated facility or a preadmission screening
18 unit, as applicable, and the court may specify conditions under
19 which the individual may return to assisted outpatient treatment
20 before the order expires.

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

24 Sec. 475a. (1) If an individual is hospitalized without a
25 hearing after placement in an ~~alternative~~ **ASSISTED OUTPATIENT**
26 treatment program, the individual has a right to object to the
27 hospitalization. Upon transfer of the individual to the hospital,

1 the hospital shall notify the individual of his or her right to
2 object under this section.

3 (2) Upon receipt of an objection to a hospitalization under
4 ~~section~~**SUBSECTION** (1), the court shall schedule a hearing for a
5 determination that the individual requires hospitalization.

6 Sec. 477. (1) A person responsible for providing treatment to
7 an individual ordered to undergo a program of ~~alternative~~**ASSISTED**
8 **OUTPATIENT** treatment or a program of combined hospitalization and
9 ~~alternative~~**ASSISTED OUTPATIENT** treatment may terminate the
10 treatment to the individual if the provider of the treatment
11 considers the individual clinically suitable for termination of
12 treatment, and shall terminate the treatment when the individual's
13 mental condition is such that he or she no longer meets the
14 criteria of a person requiring treatment.

15 (2) Upon termination of ~~alternative~~**ASSISTED OUTPATIENT**
16 treatment or combined hospitalization and ~~alternative~~**ASSISTED**
17 **OUTPATIENT** treatment, the court shall be notified by the provider
18 of the treatment.

19 Sec. 478. If, upon the discharge of a patient hospitalized by
20 court order or the termination of ~~alternative~~**ASSISTED OUTPATIENT**
21 treatment to an individual receiving ~~alternative~~**ASSISTED**
22 **OUTPATIENT** treatment ~~pursuant to~~**UNDER** this chapter, it is
23 determined that the individual would benefit from the receipt of
24 further treatment, the hospital or provider of ~~alternative~~**ASSISTED**
25 **OUTPATIENT** treatment shall offer him **OR HER** appropriate treatment
26 on a voluntary basis, or shall aid him **OR HER** to obtain treatment
27 from another source.

1 Sec. 482. Each individual subject to a 1-year order of
2 involuntary mental health treatment has the right to adequate and
3 prompt review of his or her current status as a person requiring
4 treatment. Six months from the date of a 1-year order of
5 involuntary mental health treatment, the executive director of the
6 community mental health services program responsible for treatment
7 or, if private arrangements for the reimbursement of mental health
8 treatment services have been made, the hospital director or
9 director of the ~~alternative~~**ASSISTED OUTPATIENT** treatment program
10 shall assign a physician or licensed psychologist to review the
11 individual's clinical status as a person requiring treatment.

12 Sec. 489. (1) No determination that a person requires
13 treatment, no order of court authorizing hospitalization or
14 ~~alternative~~**ASSISTED OUTPATIENT** treatment, nor any form of
15 admission to a hospital ~~shall give~~**GIVES** rise to a presumption of,
16 ~~constitute~~**CONSTITUTES** a finding of, or ~~operate~~**OPERATES** as an
17 adjudication of legal incompetence.

18 (2) No order of commitment under any previous statute of this
19 state, ~~shall,~~ in the absence of a concomitant appointment of a
20 guardian, ~~constitute~~**CONSTITUTES** a finding of or ~~operate~~**OPERATES**
21 as an adjudication of legal incompetence.

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.