

**SUBSTITUTE FOR
SENATE BILL NO. 915**

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 401, 427, 430, 461, 468, 472a, and 475 (MCL 330.1401, 330.1427, 330.1430, 330.1461, 330.1468, 330.1472a, and 330.1475), sections 401, 461, 468, 472a, and 475 as amended by 2018 PA 593, section 427 as amended by 2016 PA 320, and section 430 as amended by 1995 PA 290.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 401. (1) As used in this chapter, "person requiring
2 treatment" means ~~(a), (b), or (c)~~:**any of the following individuals:**

3 (a) An individual who has mental illness, and who as a result
4 of that mental illness can reasonably be expected within the near
5 future to intentionally or unintentionally seriously physically

1 injure ~~himself, herself, themselves~~ or another individual, and who
2 has engaged in an act or acts or made significant threats that are
3 substantially supportive of the expectation.

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

10 (c) An individual who has mental illness, whose judgment is so
11 impaired by that mental illness, and whose lack of understanding of
12 the need for treatment has caused ~~him or her~~ **the individual** to
13 demonstrate an unwillingness to voluntarily participate in or
14 adhere to treatment that is necessary, ~~on the basis of competent~~
15 ~~clinical opinion,~~ to prevent a relapse or harmful deterioration of
16 ~~his or her~~ **the individual's** condition, and presents a substantial
17 risk of significant physical or mental harm to the individual or
18 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~~ **the individual** is considered clinically
27 suitable for hospitalization by the hospital director.

28 Sec. 427. (1) If a peace officer ~~observes an individual~~
29 ~~conducting himself or herself in a manner that causes the peace~~

1 ~~officer~~ **has reasonable cause** to ~~reasonably~~ believe that ~~the~~ **an**
2 individual is a person requiring treatment, the peace officer may
3 take the individual into protective custody and transport the
4 individual to a preadmission screening unit designated by a
5 community mental health services program for examination under
6 section 429 or for mental health intervention services. The
7 preadmission screening unit shall provide those mental health
8 intervention services that it considers appropriate or shall
9 provide an examination under section 429. The preadmission
10 screening services may be provided at the site of the preadmission
11 screening unit or at a site designated by the preadmission
12 screening unit. Upon arrival at the preadmission screening unit or
13 site designated by the preadmission screening unit, the peace
14 officer shall execute a petition for hospitalization of the
15 individual. As soon as practical, the preadmission screening unit
16 shall offer to contact an immediate family member of the recipient
17 to let the family know that the recipient has been taken into
18 protective custody and where ~~he or she~~ **the individual** is located.
19 The preadmission screening unit shall honor the recipient's
20 decision as to whether an immediate family member is to be
21 contacted and shall document that decision in the recipient's
22 record. In the course of providing services, the preadmission
23 screening unit may provide advice and consultation to the peace
24 officer, ~~which~~ **that** may include a recommendation to release the
25 individual from protective custody. In all cases where a peace
26 officer has executed a petition, the preadmission screening unit
27 shall ensure that an examination is conducted by a physician or
28 licensed psychologist. The preadmission screening unit shall ensure
29 **the** provision of follow-up counseling and diagnostic and referral

1 services if needed if it is determined under section 429 that the
2 ~~person~~**individual** does not meet the requirements for
3 hospitalization.

4 (2) A peace officer is not financially responsible for the
5 cost of care of an individual for whom a peace officer has executed
6 a petition under subsection (1).

7 (3) A hospital receiving an individual under subsection (1)
8 who has been referred by a community mental health services
9 program's preadmission screening unit shall notify that unit of the
10 results of an examination of that individual conducted by the
11 hospital.

12 Sec. 430. If a patient is hospitalized under section 423, **a**
13 **psychiatrist shall examine** the patient ~~shall be examined by a~~
14 ~~psychiatrist~~ as soon after hospitalization as is practicable, but
15 not later than 24 hours, excluding legal holidays, after
16 hospitalization. The examining psychiatrist ~~shall~~**must** not be the
17 same physician upon whose clinical certificate the patient was
18 hospitalized. If the psychiatrist does not certify that the patient
19 is a person requiring treatment, the patient ~~shall~~**must** be released
20 immediately. If the psychiatrist ~~does certify~~**certifies** that the
21 patient is a person requiring treatment, **including a person**
22 **requiring treatment in the form of hospitalization**, the patient's
23 hospitalization may continue pending hearings convened ~~pursuant to~~
24 **under** sections 451 to 465. **If the psychiatrist certifies that the**
25 **patient is a person requiring treatment in the form of assisted**
26 **outpatient treatment, a referral must be made to the community**
27 **mental health services program serving the community where the**
28 **patient resides and hearings may be convened under sections 451 to**
29 **465.**

1 Sec. 461. (1) ~~An~~ **For a petition filed under section 434(1) to**
2 **(6), an** individual may not be found to require treatment unless at
3 least 1 physician or licensed psychologist who has personally
4 examined that individual testifies in person or by written
5 deposition at the hearing.

6 (2) For a petition filed under section 434(7), ~~that does not~~
7 ~~seek hospitalization before the hearing,~~ an individual may ~~not be~~
8 found to require treatment unless ~~a psychiatrist who has personally~~
9 ~~examined that individual testifies. A psychiatrist's testimony is~~
10 ~~not necessary if a psychiatrist signs the petition. If a~~
11 ~~psychiatrist signs the petition, at least 1 physician or licensed~~
12 ~~psychologist who has personally examined that individual must~~
13 ~~testify. The requirement for testimony may be waived by the subject~~
14 ~~of the petition. If the testimony given in person is waived, a~~
15 ~~clinical certificate completed by a physician, licensed~~
16 ~~psychologist, or psychiatrist must be presented to the court before~~
17 ~~or at the initial hearing.~~ **if both of the following are met, as**
18 **applicable:**

19 (a) **Except as otherwise provided in this subdivision, a**
20 **physician, psychologist, or qualified health professional has**
21 **personally examined the individual and testifies that the**
22 **individual requires treatment. The requirement for testimony may be**
23 **waived by the subject of the petition.**

24 (b) **Except as otherwise provided in this subdivision, evidence**
25 **is presented that the physician, psychologist, or qualified health**
26 **professional who examined the individual under subdivision (a)**
27 **discussed their findings and the plan for treatment for the**
28 **individual with a psychiatrist during or immediately after the**
29 **examination. This subdivision does not apply to a physician who is**

1 **a psychiatrist.**

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

6 (4) A written deposition may be introduced as evidence at the
7 hearing only if the attorney for the subject of the petition was
8 given the opportunity to be present during the taking of the
9 deposition and to cross-examine the deponent. This testimony or
10 deposition may be waived by the subject of a petition. An
11 individual may be found to require treatment even if the petitioner
12 does not testify, as long as there is competent evidence from which
13 the relevant criteria in section 401 can be established.

14 **(5) As used in this section:**

15 **(a) "Psychiatric nurse practitioner" means an individual who**
16 **is licensed as a registered professional nurse under part 172 of**
17 **the public health code, 1978 PA 368, MCL 333.17201 to 333.17242,**
18 **who has been granted a specialty certification as a nurse**
19 **practitioner by the Michigan board of nursing under section 17210**
20 **of the public health code, 1978 PA 368, MCL 333.17210, and who has**
21 **training in the area of mental health.**

22 **(b) "Qualified health professional" means a psychiatric nurse**
23 **practitioner who is acting under the delegation of a psychiatrist**
24 **under section 16215 of the public health code, 1978 PA 368, MCL**
25 **333.16215, or a physician's assistant who is acting pursuant to a**
26 **practice agreement with a psychiatrist under article 15 of the**
27 **public health code, 1978 PA 368, MCL 333.16101 to 333.18838.**

28 Sec. 468. (1) For a petition filed under section 434, if the
29 court finds that an individual is not a person requiring treatment,

1 the court shall enter a finding to that effect and, if the ~~person~~
2 **individual** has been hospitalized before the hearing, shall order
3 that the ~~person~~**individual** be discharged immediately.

4 (2) For a petition filed under section 434, if an individual
5 is found to be a person requiring treatment, the court shall do 1
6 of the following:

7 (a) Order the individual hospitalized in a hospital
8 recommended by the community mental health services program or
9 other entity as designated by the department.

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

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

23 (d) 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
28 court may include a case management plan and case management
29 services and 1 or more of the following:

1 (i) Medication.

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

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

5 (iv) Day or partial day programs.

6 (v) Educational or vocational training.

7 (vi) Supervised living.

8 (vii) Assertive community treatment team services.

9 (viii) Substance use disorder treatment.

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

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

20 (3) In developing an assisted outpatient treatment plan, a
21 psychiatrist shall supervise the preparation and implementation of
22 the assisted outpatient treatment plan. The assisted outpatient
23 treatment plan ~~shall~~**must** be completed within 30 days after entry
24 of the court's order of assisted outpatient treatment and a ~~copy~~
25 ~~shall~~**certificate of completion of the assisted outpatient**
26 **treatment plan must** be forwarded to the probate court for filing
27 within 3 days after completion of the plan to be maintained in the
28 court file.

29 (4) In developing an assisted outpatient treatment order, the

1 court shall consider any preference or medication experience
2 reported by the individual or ~~his or her~~ **the individual's**
3 designated representative, whether or not the individual has an
4 existing individual plan of services under section 712, and any
5 direction included in a durable power of attorney or advance
6 directive that exists.

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

18 (6) If an order for assisted outpatient treatment conflicts
19 with the provisions of an existing durable power of attorney,
20 advance directive, or individual plan of services developed under
21 section 712, the assisted outpatient treatment order ~~shall~~ **must** be
22 reviewed for possible adjustment by a psychiatrist not previously
23 involved with developing the assisted outpatient treatment order.
24 If an order for assisted outpatient treatment conflicts with the
25 provisions of an existing advance directive, durable power of
26 attorney, or individual plan of services developed under section
27 712, the court shall state the court's findings on the record or in
28 writing if the court takes the matter under advisement, including
29 the reason for the conflict.

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

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

7 (b) An initial order of assisted outpatient treatment ~~shall~~
8 **must** not exceed 180 days.

9 (c) An initial order of combined hospitalization and assisted
10 outpatient treatment ~~shall~~**must** not exceed 180 days. The
11 hospitalization portion of the initial order ~~shall~~**must** not exceed
12 60 days.

13 (2) Upon the receipt of a petition under section 473 before
14 the expiration of an initial order under subsection (1) and a
15 finding that the individual continues to be a person requiring
16 treatment, the court shall issue a second order for involuntary
17 mental health treatment that ~~shall~~**must be limited in duration as**
18 **follows:**

19 (a) **A second order of hospitalization must** not exceed 90 days.

20 (b) **A second order of assisted outpatient treatment must not**
21 **exceed 1 year.**

22 (c) **A second order of combined hospitalization and assisted**
23 **outpatient treatment must not exceed 1 year. The hospitalization**
24 **portion of the second order must not exceed 90 days.**

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

1 **(a) A continuing order of hospitalization must** not exceed 1
2 year.

3 **(b) A continuing order of assisted outpatient treatment must**
4 **not exceed 1 year.**

5 **(c) A continuing order of combined hospitalization and**
6 **assisted outpatient treatment must not exceed 1 year. The**
7 **hospitalization portion of a continuing order for combined**
8 **hospitalization and assisted outpatient treatment must not exceed**
9 **90 days.**

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

23 (5) If a petition for an order of involuntary mental health
24 treatment is not brought under section 473 at least 14 days before
25 the expiration of an order of involuntary mental health treatment
26 as described in subsections (2) to (4), a person who believes that
27 an individual continues to be a person requiring treatment may file
28 a petition under section 434 for an initial order of involuntary
29 mental health treatment as described in subsection (1).

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

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

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

25 (b) Modify the order to direct the individual to undergo
26 hospitalization or combined hospitalization and assisted outpatient
27 treatment. The duration of the hospitalization, including the
28 number of days the individual has already been hospitalized if the
29 order being modified is a combined order, ~~shall~~ **must** not exceed 60

1 days for an initial order or 90 days for a second or continuing
2 order. The modified order may provide that if the individual
3 refuses to comply with the psychiatrist's order to return to the
4 hospital, a peace officer shall take the individual into protective
5 custody and transport the individual to the hospital selected.

6 **(c) Convene a status conference with the supervising agency**
7 **and the individual to review the individual's compliance with the**
8 **order.**

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~~**On** recommendation by the community mental health
27 services program serving the community in which the individual
28 resides, that the individual be hospitalized for a period of more
29 than 10 days, but not longer than the duration of the order for

1 assisted outpatient treatment or a combination of hospitalization
2 and assisted outpatient treatment, or not longer than 90 days,
3 whichever is less.

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

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