

# SENATE BILL NO. 915

June 12, 2024, Introduced by Senators HERTEL, SANTANA, WOJNO and IRWIN and referred to the Committee on Health Policy.

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:**

1           (a) An individual who has mental illness, and who as a result  
2 of that mental illness can reasonably be expected within the near  
3 future to intentionally or unintentionally seriously physically  
4 injure ~~himself, herself, themselves~~ or another individual, and who  
5 has engaged in an act or acts or made significant threats that are  
6 substantially supportive of the expectation.

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

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

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

1 suitable for hospitalization by the hospital director.

2       Sec. 427. (1) If a peace officer ~~observes an individual~~  
3 ~~conducting himself or herself in a manner that causes the peace~~  
4 ~~officer~~ **has reasonable cause** to reasonably believe that ~~the an~~  
5 individual is a person requiring treatment, the peace officer may  
6 take the individual into protective custody and transport the  
7 individual to a preadmission screening unit designated by a  
8 community mental health services program for examination under  
9 section 429 or for mental health intervention services. The  
10 preadmission screening unit shall provide those mental health  
11 intervention services that it considers appropriate or shall  
12 provide an examination under section 429. The preadmission  
13 screening services may be provided at the site of the preadmission  
14 screening unit or at a site designated by the preadmission  
15 screening unit. Upon arrival at the preadmission screening unit or  
16 site designated by the preadmission screening unit, the peace  
17 officer shall execute a petition for hospitalization of the  
18 individual. As soon as practical, the preadmission screening unit  
19 shall offer to contact an immediate family member of the recipient  
20 to let the family know that the recipient has been taken into  
21 protective custody and where ~~he or she~~ **the individual** is located.  
22 The preadmission screening unit shall honor the recipient's  
23 decision as to whether an immediate family member is to be  
24 contacted and shall document that decision in the recipient's  
25 record. In the course of providing services, the preadmission  
26 screening unit may provide advice and consultation to the peace  
27 officer, which may include a recommendation to release the  
28 individual from protective custody. In all cases where a peace  
29 officer has executed a petition, the preadmission screening unit

1 shall ensure that an examination is conducted by a physician or  
2 licensed psychologist. The preadmission screening unit shall ensure  
3 **the** provision of follow-up counseling and diagnostic and referral  
4 services if needed if it is determined under section 429 that the  
5 ~~person~~**individual** does not meet the requirements for  
6 hospitalization.

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

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

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

1 mental health services program serving the community where the  
 2 patient resides and hearings may be convened under sections 451 to  
 3 465.

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

9 (2) For a petition filed under section 434(7), ~~that does not~~  
 10 ~~seek hospitalization before the hearing,~~ an individual may ~~not~~ be  
 11 found to require treatment ~~unless a psychiatrist who has personally~~  
 12 ~~examined that individual testifies. A psychiatrist's testimony is~~  
 13 ~~not necessary if a psychiatrist signs the petition. If a~~  
 14 ~~psychiatrist signs the petition, at least 1 physician or licensed~~  
 15 ~~psychologist who has personally examined that individual must~~  
 16 ~~testify.~~ **if a physician, psychologist, or a psychiatrist nurse**  
 17 **practitioner or physician assistant working under the supervision**  
 18 **of a psychiatrist has personally examined the individual and**  
 19 **testifies that the individual requires treatment.** The requirement  
 20 for testimony may be waived by the subject of the petition. ~~If the~~  
 21 ~~testimony given in person is waived, a clinical certificate~~  
 22 ~~completed by a physician, licensed psychologist, or psychiatrist~~  
 23 ~~must be presented to the court before or at the initial hearing.~~

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

28 (4) A written deposition may be introduced as evidence at the  
 29 hearing only if the attorney for the subject of the petition was

1 given the opportunity to be present during the taking of the  
2 deposition and to cross-examine the deponent. This testimony or  
3 deposition may be waived by the subject of a petition. An  
4 individual may be found to require treatment even if the petitioner  
5 does not testify, as long as there is competent evidence from which  
6 the relevant criteria in section 401 can be established.

7       Sec. 468. (1) For a petition filed under section 434, if the  
8 court finds that an individual is not a person requiring treatment,  
9 the court shall enter a finding to that effect and, if the ~~person~~  
10 **individual** has been hospitalized before the hearing, shall order  
11 that the ~~person~~**individual** be discharged immediately.

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

15       (a) Order the individual hospitalized in a hospital  
16 recommended by the community mental health services program or  
17 other entity as designated by the department.

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

27       (c) Order the individual to undergo a program of combined  
28 hospitalization and assisted outpatient treatment, as recommended  
29 by the community mental health services program or other entity as

1 designated by the department.

2 (d) Order the individual to receive assisted outpatient  
3 treatment through a community mental health services program, or  
4 other entity as designated by the department, capable of providing  
5 the necessary treatment and services to assist the individual to  
6 live and function in the community as specified in the order. The  
7 court may include a case management plan and case management  
8 services and 1 or more of the following:

9 (i) Medication.

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

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

13 (iv) Day or partial day programs.

14 (v) Educational or vocational training.

15 (vi) Supervised living.

16 (vii) Assertive community treatment team services.

17 (viii) Substance use disorder treatment.

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

23 (x) Any other services prescribed to treat the individual's  
24 mental illness and either to 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.

28 (3) In developing an assisted outpatient treatment plan, a  
29 psychiatrist shall supervise the preparation and implementation of

1 the assisted outpatient treatment plan. The assisted outpatient  
2 treatment plan ~~shall~~**must** be completed within 30 days after entry  
3 of the court's order of assisted outpatient treatment and a ~~copy~~  
4 ~~shall~~**certificate of completion of the assisted outpatient**  
5 **treatment plan must** be forwarded to the probate court for filing  
6 within 3 days after completion of the plan to be maintained in the  
7 court file.

8 (4) In developing an assisted outpatient treatment order, the  
9 court shall consider any preference or medication experience  
10 reported by the individual or ~~his or her~~**the individual's**  
11 designated representative, whether or not the individual has an  
12 existing individual plan of services under section 712, and any  
13 direction included in a durable power of attorney or advance  
14 directive that exists.

15 (5) Before an order of assisted outpatient treatment expires,  
16 if the individual has not previously designated a patient advocate  
17 or executed a durable power of attorney or an advance directive,  
18 the responsible community mental health services program or other  
19 entity as designated by the department shall ascertain whether the  
20 individual desires to establish a durable power of attorney or an  
21 advance directive. If so, the community mental health services  
22 program or other entity as designated by the department shall  
23 direct the individual to the appropriate community resource for  
24 assistance in developing a durable power of attorney or an advance  
25 directive.

26 (6) If an order for assisted outpatient treatment conflicts  
27 with the provisions of an existing durable power of attorney,  
28 advance directive, or individual plan of services developed under  
29 section 712, the assisted outpatient treatment order shall be



1 reviewed for possible adjustment by a psychiatrist not previously  
2 involved with developing the assisted outpatient treatment order.  
3 If an order for assisted outpatient treatment conflicts with the  
4 provisions of an existing advance directive, durable power of  
5 attorney, or individual plan of services developed under section  
6 712, the court shall state the court's findings on the record or in  
7 writing if the court takes the matter under advisement, including  
8 the reason for the conflict.

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

13       (a) An initial order of hospitalization ~~shall~~**must** not exceed  
14 60 days.

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

17       (c) An initial order of combined hospitalization and assisted  
18 outpatient treatment ~~shall~~**must** not exceed 180 days. The  
19 hospitalization portion of the initial order ~~shall~~**must** not exceed  
20 60 days.

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

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

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

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

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

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

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

13           **(c) A continuing order of combined hospitalization and**  
14 **assisted outpatient treatment must not exceed 1 year. The**  
15 **hospitalization portion of a continuing order for combined**  
16 **hospitalization and assisted outpatient treatment must not exceed**  
17 **90 days.**

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

1 treatment.

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

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

21 (2) If it comes to the attention of the court that an  
22 individual subject to an order of assisted outpatient treatment or  
23 combined hospitalization and assisted outpatient treatment is not  
24 complying with the order, that the assisted outpatient treatment  
25 has not been or will not be sufficient to prevent harm to the  
26 individual or to others, or that the individual believes that the  
27 assisted outpatient treatment program is not appropriate, the court  
28 may do ~~either~~ **any** of the following without a hearing and based upon  
29 the record and other available information:

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

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

14 **(c) Convene a status conference with the supervising agency**  
15 **and the individual to review the individual's compliance with the**  
16 **order.**

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

24 (4) If it comes to the attention of the court that an  
25 individual subject to an order of assisted outpatient treatment or  
26 a combination of hospitalization and assisted outpatient treatment  
27 is not complying with the order, the court may require 1 or more of  
28 the following, without a hearing:

29 (a) That the individual be taken to the preadmission screening

1 unit established by the community mental health services program  
2 serving the community in which the individual resides.

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

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

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

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