



**House  
Legislative  
Analysis  
Section**

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House Bill 4116 as enrolled **RECEIVED**  
Second Analysis (8-2-87)

**AUG 19 1987**

Sponsor: Rep. Claude Trim  
Committee: Mental Health Mich. State Law Library

**THE APPARENT PROBLEM:**

In order for someone to be classified under the Michigan Mental Health Code as developmentally disabled, the person's impairment (which the code further defines) must originate before he or she is 18 years old. Some people 18 and older who become severely disabled (for example, as the result of stroke or head injury) could benefit from programs for the developmentally disabled, but their age at the onset of their impairment makes them ineligible for these programs.

Although there are a variety of federal, state, and private programs available for people who become disabled after age 18, some people still "fall between the cracks" under existing programs. For example, day programs generally are not available through the Department of Social Services, and federal programs generally will pay only for services in an institutional setting. Families of people disabled after 18 are faced with the difficult choice between "warehousing" their disabled loved ones (often in geriatric nursing care homes) or keeping them home and "going it alone". Private, fee-for-service programs are seldom available, but even when available the costs (averaging \$600 per day) are such that families can seldom afford such programs or, if they can, they seldom can afford to keep their disabled relatives in the programs as long as needed.

At least one Community Mental Health agency has provided developmentally disabled services over the past ten years to ten people who technically did not meet the state age requirement, on the grounds that these people did meet the 22-year age limit in the federal definition of developmental disability. Nevertheless, the program director wonders whether his decisions would be upheld were the program to be audited. Those who believe that developmentally disabled services should be made available to 18- to 22-year-olds have requested legislation that would raise the state age limit for developmental disability classification from 18 to 22.

**THE CONTENT OF THE BILL:**

The bill would amend the definition of "developmentally disabled" in the Mental Health Code to change the age by which the developmental disability must have originated from 18 to 22 years of age.

MCL 330.1500

**FISCAL IMPLICATIONS:**

The Senate Fiscal Agency estimates that the bill could cost the state from \$650,000 to \$9,800,000 in fiscal year 1987-88 if an additional 200 people between the ages of 18 to 22 years were to require services under the new definition of developmentally disabled. (The estimate of 200 additional cases is based on the percentage of 19- to 22-year-olds in the state compared to the number of head injury cases.)

The cost would be approximately \$650,000 per year if the additional 200 cases required mental health services such

as case management and partial day and family support services. If more intensive services, such as residential services, were needed, the costs would be much higher.

The average daily rate for residential services in fiscal year 1986-87 is approximately \$103.32, with this rate expected to rise in fiscal year 1987-88. An additional 200 cases at the current rate would cost approximately \$7,542,360 a year, though some of these additional costs might be reimbursed through federal and county funds. Federal funds may be available because federal programs use a definition of developmentally disabled which includes an age range of birth to 22 years of age. In addition, some of the services provided by the Department of Mental Health are eligible for a ten percent match from county governments, which would offset gross departmental expenditures for these new cases. (6-10-87)

**ARGUMENTS:**

**For:**

The bill would make the Michigan age requirement in the definition of "developmental disability" consistent with the federal requirement specified in the Developmental Disabilities Assistance and Bill of Rights Act of 1984. It also would be consistent with the age requirement in the definition of "persons with related conditions" held by the Health Care Facilities Administration's Intermediate Care Facilities for the Mentally Retarded.

**For:**

There exists a group of young adults (mostly survivors of head injuries, but also including some young stroke victims) who could benefit greatly from the range of programs available to the developmentally disabled but who do not qualify for these programs because they were 18 or older when their disability was incurred. For reasons of simple fairness and equity this group of young people, ranging from 18 to 22 years of age, should be allowed access to developmental disability programs by raising the age requirement from 18 to 22.

The Michigan Head Injury Alliance estimates that each year between 18,000 and 20,000 people in Michigan become disabled by traumatic brain injury. Of this number, ten percent (or 1,800 to 2,000) are left with intellectual impairment of such a degree as to preclude their return to a normal life. Two-thirds of these people are male, and one survey indicates that half receive their injuries before their 22nd birthday. This suggests that each year in Michigan approximately 10,000 cases of head injury will occur to people before age 22 and that 1,000 of these young people will be left with severe impairments that inhibit independent living. Since Michigan's no-fault automobile insurance law provides unlimited benefits to auto accident victims, and since an estimated 50 percent of head injuries result from auto accidents, half of these 1,000 young people are covered by "no-fault" but the remaining half are not.

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Existing programs for survivors of head injury who are not covered by no-fault auto insurance or who exceed the existing age requirement for developmental disability programs are costly, rare, and fragmented. As a result, 18- to 21-year-old survivors of head injury still are either being discharged from the hospital to geriatric chronic care facilities and state psychiatric hospitals, where they are given inappropriate care, or they return home, where their families struggle to cope with the multiple physical and emotional problems that accompany head injury. This "solution" faced by families of head injured survivors — choosing between "warehousing" their loved ones or bringing them home without access to the necessary restorative and respite programs — is a cruel injustice that results in condemning these young people to lives devoid of meaning and dignity and subjecting their families to almost indescribable stresses and anguish.

Although changing the age of eligibility from 18 to 22 would not solve all the problems of this population or even guarantee services, it would at least allow these young people and their families equal access to some desperately needed services. How can we justify a wasted life just because an impairment was unrelated to an automobile accident or because the injury occurred after the person's 18th birthday?

### ***Against:***

If there is nothing "magic" about an age 18 cut-off point for developmental disability, why stop at age 22? Surely a 40-year-old survivor of traumatic head injury or severe stroke is just as deserving of the full range of services as, say, a 21-year-old. Why not just remove the age limit altogether?

***Response:*** Ideally (which is to say, were resources unlimited), there would be no age limit on eligibility for services now available only to those falling under the current definition of "developmentally disabled". But given that resources are limited, the age 22 requirement would bring Michigan into conformity with federal requirements, as well as serving an age population which, generally, has more potential for greater functional recovery than do older populations.

### ***Against:***

Current resources for people classified as developmentally disabled are not sufficient to meet the existing need. For example, there is a waiting list of over 100 people for three major programs offered by one of the most developmentally disabled "activist" community mental health agencies in the state, with a wait of up to a year for day programs alone. The human services system is already strained. Adding additional people to the service population will not only exacerbate existing problems, but create false hopes that additional services will become available. At the very least, if the eligibility requirement is to be broadened, additional money should be appropriated, both at the state and local levels (since local governments are responsible for about ten percent of the cost of services to people in their counties), to provide the necessary services. This may be difficult, or even impossible, to do.

***Response:*** In the first place, although no one knows how many people would be added to the service population by the bill, the various estimates are relatively low. For example, the Department of Mental Health's estimates of the costs of the bill are based on adding 50 additional people to the system, while one community mental health official reports providing services to only ten such people in the past ten years.

Secondly, though, those asking for this change are aware of the current problems the human services system is operating under. All they want is equal access to the available services, however long the waiting lists may be. This at least would provide a modicum of hope for families and survivors who currently are struggling alone with enormous problems. To deny even this hope for services seems needlessly cruel.

### ***Against:***

If the definition of "developmental disability" in the Mental Health Code is to be changed to conform to the federal definition in one respect, then it ought to be changed to conform to it in all respects. That is, the state should change not just the age requirement, but should instead adopt the federal definition in its entirety. For example, one very important respect in which the federal and state definitions differ is that the federal definition allows physical impairment, as well as mental impairment or a combination of mental and physical impairment, to count as developmental disability, while the state code does not. But certainly people who are severely impaired as the result of stroke or head injury during their adult years often suffer considerable emotional trauma as well. They, too, should be able to receive the benefits of the more comprehensive programs available to the developmentally disabled.

***Response:*** It would be premature to adopt the federal definition in its entirety now because the federal government currently is reviewing its definition of developmental disability. While the state may well want to adopt the federal definition once the federal government has completed its revision, it would not make much sense to adopt the entire present federal definition because that very well might be changed soon.

***Reply:*** If the federal definition currently is undergoing revision, the state shouldn't change its age of onset requirement to conform to the federal requirement until it is clear what will happen to the present federal requirement.

### ***Against:***

Changing the age of onset distorts the definition of developmentally disabled. The change opens the definition to a variety of age-related disabilities, such as stroke, and "captures" specific populations, such as motorcycle riders who suffer head injuries, whose problems might better be addressed through other legislation (such as bringing motorcycles under the no-fault automobile insurance system).