

House Bill 5487

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending sections 498h [,] 498j [, 604, and 632] (MCL
330.1498h[,] 330.1498j [, 330.1604, and 330.1632]), section 498h as
amended by 1996 PA 588[,] section 498j as added by 1984 PA 186 [,
and section 604 as amended by 1978 PA 527].

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 498h. (1) A MINOR'S parent, guardian, or person in
2 loco parentis may request emergency admission of ~~a~~ THE minor to
3 a hospital, if the person making the request has reason to
4 believe that the minor is a minor requiring treatment and that
5 the minor presents a serious danger to self or others.

6 (2) If the hospital to which the request for emergency
7 admission is made is not under contract to the community mental
8 health services program, the request for emergency
9 hospitalization shall be made directly to the hospital. If the

1 hospital director agrees that the minor needs emergency
2 admission, the minor shall be hospitalized. If the hospital
3 director does not agree, the person making the request may
4 request hospitalization of the minor under section 498d.

5 (3) If the hospital to which the request for emergency
6 admission is made is under contract to the community mental
7 health services program, the request shall be made to the pread-
8 mission screening unit of the community mental health services
9 program serving in the county where the minor resides. If the
10 community mental health services program has a children's diag-
11 nostic and treatment service, the preadmission screening unit
12 shall refer the person making the request to that service. In
13 counties where there is no children's diagnostic and treatment
14 service, the preadmission screening unit shall refer the person
15 making the request to the appropriate hospital. If it is deter-
16 mined that emergency admission is not necessary, the person may
17 request hospitalization of the minor under section 498d. If it
18 is determined that emergency admission is necessary, the minor
19 shall be hospitalized or placed in an appropriate alternative
20 program.

21 (4) If a minor is assessed by the preadmission screening
22 unit and found not to be clinically suitable for hospitalization,
23 the preadmission screening unit shall inform the individual or
24 individuals requesting hospitalization of the minor of appropri-
25 ate available alternative services to which a referral should be
26 made and of the process for a request of a second opinion under
27 subsection (5).

1 (5) If the preadmission screening unit of the community
2 mental health services program denies hospitalization, ~~the~~ A
3 MINOR'S parent or guardian ~~of the minor~~ may request a second
4 opinion from the executive director. The executive director
5 shall arrange for an additional evaluation by a psychiatrist,
6 other physician, or licensed psychologist to be performed within
7 3 days, excluding Sundays and legal holidays, after the executive
8 director receives the request. If the conclusion of the second
9 opinion is different from the conclusion of the preadmission
10 screening unit, the executive director, in conjunction with the
11 medical director, shall make a decision based on all clinical
12 information available. The executive director's decision shall
13 be confirmed in writing to the individual who requested the
14 second opinion, and the confirming document shall include the
15 signatures of the executive director and medical director or ver-
16 ification that the decision was made in conjunction with the med-
17 ical director.

18 (6) If a person in loco parentis makes a request for emer-
19 gency admission and the minor is admitted to a hospital under
20 this section, the hospital director or the executive director of
21 the community mental health services program immediately shall
22 notify the MINOR'S parent or parents or ~~the~~ guardian. ~~of the~~
23 ~~minor.~~

24 (7) If a minor is hospitalized in a hospital that is oper-
25 ated under contract with a community mental health services pro-
26 gram, the hospital director shall notify the appropriate

1 executive director within 24 hours after the hospitalization
2 occurs.

3 (8) If a peace officer, as a result of personal observation,
4 has reasonable grounds to believe that a minor is a minor requir-
5 ing treatment and that the minor presents a serious danger to
6 self or others and if after a reasonable effort to locate the
7 minor's parent, guardian, or person in loco parentis, the minor's
8 parent, guardian, or person in loco parentis cannot be located,
9 the peace officer may take the minor into protective custody and
10 transport the minor to the appropriate community mental health
11 preadmission screening unit, if the community mental health serv-
12 ices program has a children's diagnostic and treatment service,
13 or to a hospital if it does not have a children's diagnostic and
14 treatment service. After transporting the minor, the peace offi-
15 cer shall execute a written request for emergency hospitalization
16 of the minor stating the reasons, based upon personal observa-
17 tion, that the peace officer believes that emergency hospitaliza-
18 tion is necessary. The written request shall include a statement
19 that a reasonable effort was made by the peace officer to locate
20 the minor's parent, guardian, or person in loco parentis. If it
21 is determined that emergency hospitalization of the minor is not
22 necessary, the minor shall be returned to his or her parent,
23 guardian, or person in loco parentis if an additional attempt to
24 locate the parent, guardian, or person in loco parentis is
25 successful. If the minor's parent, guardian, or person in loco
26 parentis cannot be located, the minor shall be turned over to the
27 protective services program of the family independence agency.

1 If it is determined that emergency admission of the minor is
2 necessary, the minor shall be admitted to the appropriate hospi-
3 tal or to an appropriate alternative program. The executive
4 director immediately shall notify the MINOR'S parent, guardian,
5 or person in loco parentis. If the hospital is under contract
6 with the community mental health services program, the hospital
7 director shall notify the appropriate executive director within
8 24 hours after the hospitalization occurs.

9 (9) An evaluation of a minor admitted to a hospital under
10 this section shall begin immediately after the minor is
11 admitted. The evaluation shall be conducted in the same manner
12 as provided in section 498e. If the minor is not found to be
13 suitable for hospitalization, the minor shall be released into
14 the custody of his or her parent, guardian, or person in loco
15 parentis, and the minor shall be referred to the executive direc-
16 tor who shall determine if the minor needs mental health
17 services. If it is determined that the minor needs mental health
18 services, the executive director shall offer an appropriate
19 treatment program for the minor, if the program is available, or
20 refer the minor to another agency for services.

21 (10) A hospital director shall proceed under either the
22 ~~revised probate code, Act No. 642 of the Public Acts of 1978,~~
23 ~~being sections 700.1 to 700.993 of the Michigan Compiled Laws, or~~
24 ~~chapter XIIA of Act No. 288 of the Public Acts of 1939, being~~
25 ~~sections 712A.1 to 712A.32 of the Michigan Compiled Laws~~ ESTATES
26 AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO
27 700.8102, OR CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA

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1 288, MCL 712A.1 TO 712A.32, as warranted by the situation and the
2 best interests of the minor, under any of the following
3 circumstances:

4 (a) The hospital director cannot locate a parent, guardian,
5 or person in loco parentis of a minor admitted to a hospital
6 under subsection (8).

7 (b) The hospital director cannot locate the parent or guard-
8 ian of a minor admitted to a hospital by a person in loco paren-
9 tis under this section.

10 Sec. 498j. ~~The~~ A HOSPITAL SHALL REQUEST A parent or
11 guardian of a minor admitted to a hospital under this chapter
12 ~~shall be requested by the hospital~~ to give written consent ~~to~~
13 ~~the~~ FOR THE MINOR'S treatment ~~of the minor~~ and for the release
14 of information from agencies or individuals involved in treating
15 the minor ~~prior to~~ BEFORE THE hospitalization considered neces-
16 sary by the hospital for THE MINOR'S treatment. ~~of the minor.~~
17 ~~If consent to treatment cannot be obtained~~ THE HOSPITAL CANNOT
18 OBTAIN CONSENT FOR TREATMENT, the director of the hospital may
19 proceed under either the ~~revised probate code, Act No. 642 of~~
20 ~~the Public Acts of 1978, being sections 700.1 to 700.933 of the~~
21 ~~Michigan Compiled Laws, or chapter XIIA of Act No. 288 of the~~
22 ~~Public Acts of 1939, being sections 712A.1 to 712A.28 of the~~
23 ~~Michigan Compiled Laws~~ ESTATES AND PROTECTED INDIVIDUALS CODE,
24 1998 PA 386, MCL 700.1101 TO 700.8102, OR CHAPTER XIIA OF THE
25 PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1 TO 712A.32, as war-
26 ranted by the situation and the best interests of the minor.

[Sec. 604. (1) The court has jurisdiction over guardianship proceedings for developmentally disabled persons.

(2) An appointment of a guardian for a developmentally disabled person shall be made only ~~pursuant to~~ UNDER this chapter, except that a guardian may be appointed for a minor where appropriate pursuant to chapter 3 of Act No. 288 of the Public Acts of 1939, as amended, being sections 703.1 to 703.35 of the Michigan Compiled Laws ~~UNDER SECTIONS 5201 TO 5219 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5201 TO 700.5219.~~

Sec. 632. Whenever the court appoints a plenary guardian of the estate or a partial guardian with powers or duties respecting real or personal property, that guardian shall be ~~deemed~~ CONSIDERED a fiduciary for the purposes of ~~chapter 4 of Act No. 288 of the Public Acts of 1939, as amended, being sections 704.1 to 704.60 of the Michigan Compiled Laws~~ THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO 700.8102.]

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1 Enacting section 1. This amendatory act takes effect
2 April 1, 2000.