

# HOUSE BILL No. 4167

February 8, 2001, Introduced by Reps. Bernero, Hager, DeWeese, Bob Brown, Plakas, McConico, Rocca, Lipsey, Pestka, Kolb, Murphy, Zelenko, Jacobs, O'Neil, Mans, Gielegem, Rivet, Spade, Bogardus, Basham, Waters, Garza, Hale, Kowall, Mortimer, Vander Veen, Faunce and Schauer and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending section 100a (MCL 330.1100a), as amended by 1998 PA 497, and by adding section 208a.

**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 tal-  
3 ents and acquired proficiencies.

4       (2) "Abuse" means nonaccidental physical or emotional harm  
5 to 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

1 department, community mental health services program, or licensed  
2 hospital.

3 (3) "Adaptive skills" means skills in 1 or more of the fol-  
4 lowing areas:

5 (a) Communication.

6 (b) Self-care.

7 (c) Home living.

8 (d) Social skills.

9 (e) Community use.

10 (f) Self-direction.

11 (g) Health and safety.

12 (h) Functional academics.

13 (i) Leisure.

14 (j) Work.

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

18 (5) "Applicant" means an individual or his or her legal rep-  
19 resentative who makes a request for mental health services.

20 (6) "Board" means the governing body of a community mental  
21 health services program.

22 (7) "Board of commissioners" means a county board of  
23 commissioners.

24 (8) "Center" means a facility operated by the department to  
25 admit individuals with developmental disabilities and provide  
26 habilitation and treatment services.

1 (9) "Certification" means formal approval of a program by  
2 the department in accordance with standards developed or approved  
3 by the department.

4 (10) "Child abuse" and "child neglect" mean those terms as  
5 defined in section 2 of the child protection law, 1975 PA 238,  
6 MCL 722.622.

7 (11) "Child and adolescent psychiatrist" means 1 or more of  
8 the following:

9 (a) A physician who has completed a residency program in  
10 child and adolescent psychiatry approved by the accreditation  
11 council for graduate medical education or the American osteo-  
12 pathic association, or who has completed 12 months of child and  
13 adolescent psychiatric rotation and is enrolled in an approved  
14 residency program as described in this subsection.

15 (b) A psychiatrist employed by or under contract as a child  
16 and adolescent psychiatrist with the department or a community  
17 mental health services program on March 28, 1996, who has educa-  
18 tion and clinical experience in the evaluation and treatment of  
19 children or adolescents with serious emotional disturbance.

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

23 (12) "Children's diagnostic and treatment service" means a  
24 program operated by or under contract with a community mental  
25 health services program, that provides examination, evaluation,  
26 and referrals for minors, including emergency referrals, that

1 provides or facilitates treatment for minors, and that has been  
2 certified by the department.

3 (13) "Community mental health authority" means a separate  
4 legal public governmental entity created under section 205 to  
5 operate as a community mental health services program.

6 (14) "Community mental health organization" means a commu-  
7 nity mental health services program that is organized under the  
8 urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501  
9 to 124.512.

10 (15) "Community mental health services program" OR "CMHSP"  
11 means a program operated under chapter 2 as a county community  
12 mental health agency, a community mental health authority, or a  
13 community mental health organization.

14 (16) "Consent" means a written agreement executed by a  
15 recipient, a minor recipient's parent, or a recipient's legal  
16 representative with authority to execute a consent, or a verbal  
17 agreement of a recipient that is witnessed and documented by an  
18 individual other than the individual providing treatment.

19 (17) "County community mental health agency" means an offi-  
20 cial county or multicounty agency created under section 210 that  
21 operates as a community mental health services program and that  
22 has not elected to become a community mental health authority  
23 under section 205 or a community mental health organization under  
24 the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,  
25 MCL 124.501 to 124.512.

26 (18) "Dependent living setting" means all of the following:

1 (a) An adult foster care facility.

2 (b) A nursing home licensed under article 17 of the public  
3 health code, 1978 PA 368, MCL 333.20101 to 333.22260.

4 (c) A home for the aged licensed under article 17 of the  
5 public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

6 (19) "Department" means the department of community health.

7 (20) "Developmental disability" means either of the  
8 following:

9 (a) If applied to an individual older than 5 years OLD, a  
10 severe, chronic condition that meets all of the following  
11 requirements:

12 (i) Is attributable to a mental or physical impairment or a  
13 combination of mental and physical impairments.

14 (ii) Is manifested before the individual is 22 years old.

15 (iii) Is likely to continue indefinitely.

16 (iv) Results in substantial functional limitations in 3 or  
17 more of the following areas of major life activity:

18 (A) Self-care.

19 (B) Receptive and expressive language.

20 (C) Learning.

21 (D) Mobility.

22 (E) Self-direction.

23 (F) Capacity for independent living.

24 (G) Economic self-sufficiency.

25 (v) Reflects the individual's need for a combination and  
26 sequence of special, interdisciplinary, or generic care,

1 treatment, or other services that are of lifelong or extended  
2 duration and are individually planned and coordinated.

3 (b) If applied to a minor from birth to age 5, a substantial  
4 developmental delay or a specific congenital or acquired condi-  
5 tion with a high probability of resulting in developmental dis-  
6 ability as defined in subdivision (a) if services are not  
7 provided.

8 (21) "Director" means the director of the department or his  
9 or her designee.

10 (22) "Discharge" means an absolute, unconditional release of  
11 an individual from a facility by action of the facility or a  
12 court.

13 (23) "Eligible minor" means an individual less than 18 years  
14 of age who is recommended in the written report of a multidisci-  
15 plinary team under rules promulgated by the department of educa-  
16 tion to be classified as 1 of the following:

17 (a) Severely mentally impaired.

18 (b) Severely multiply impaired.

19 (c) Autistic impaired and receiving special education serv-  
20 ices in a program designed for the autistic impaired under  
21 subsection (1) of R 340.1758 of the Michigan administrative code  
22 or in a program designed for the severely mentally impaired or  
23 severely multiply impaired.

24 (24) "Emergency situation" means a situation in which an  
25 individual is experiencing a serious mental illness or a develop-  
26 mental disability, or a ~~child~~ MINOR is experiencing a serious  
27 emotional disturbance, and 1 of the following applies:

1 (a) The individual can reasonably be expected within the  
2 near future to physically injure himself, herself, or another  
3 individual, either intentionally or unintentionally.

4 (b) The individual is unable to provide himself or herself  
5 food, clothing, or shelter or to attend to basic physical activi-  
6 ties such as eating, toileting, bathing, grooming, dressing, or  
7 ambulating, and this inability may lead in the near future to  
8 harm to the individual or to another individual.

9 (c) The individual's judgment is so impaired that he or she  
10 is unable to understand the need for treatment and, in the opin-  
11 ion of the mental health professional, his or her continued  
12 behavior as a result of the mental illness, developmental dis-  
13 ability, or emotional disturbance can reasonably be expected in  
14 the near future to result in physical harm to the individual or  
15 to another individual.

16 (D) THE MINOR DISPLAYS BEHAVIOR THAT SUGGESTS HE OR SHE HAS  
17 AN IMPAIRMENT INVOLVING PERSONALITY DEVELOPMENT, INDIVIDUAL  
18 ADJUSTMENT, SOCIAL ADJUSTMENT, OR EMOTIONAL GROWTH THAT COULD BE  
19 TREATED THROUGH SERVICES PROVIDED UNDER THIS ACT.

20 (25) "Executive director" means an individual appointed  
21 under section 226 to direct a community mental health services  
22 program or his or her designee.

23 SEC. 208A. (1) FOR THE PURPOSE OF MAKING A PRIORITY REFER-  
24 RAL ACCORDING TO SECTION 208, A SCHOOL DISTRICT MAY MAKE A DETER-  
25 MINATION THAT A MINOR IS IN AN URGENT OR EMERGENCY SITUATION. A  
26 SCHOOL DISTRICT MAY DESIGNATE A MENTAL HEALTH PROFESSIONAL TO  
27 MAKE A DETERMINATION AUTHORIZED UNDER THIS SECTION.

1 (2) UPON RECEIPT OF A REFERRAL MADE BY A SCHOOL DISTRICT  
2 UNDER SUBSECTION (1), A CMHSP SHALL EVALUATE THE REFERRED MINOR  
3 AND MAKE A RECOMMENDATION REGARDING A PLAN OF SERVICES TO BE  
4 IMPLEMENTED BY EITHER THE CMHSP, THE REFERRING SCHOOL DISTRICT,  
5 OR BOTH. NOT MORE THAN 48 HOURS AFTER RECEIVING THE REFERRAL,  
6 THE CMHSP SHALL SEND A COPY OF THE RECOMMENDATION REGARDING THE  
7 REFERRED MINOR TO THE REFERRING SCHOOL DISTRICT AND THE REFERRED  
8 MINOR'S PARENT OR GUARDIAN.

9 (3) IF THE REFERRING SCHOOL DISTRICT AND THE REFERRED  
10 MINOR'S PARENT OR GUARDIAN AGREE WITH THE CMHSP'S RECOMMENDED  
11 PLAN OF SERVICES, THE REFERRING SCHOOL DISTRICT SHALL NOTIFY THE  
12 CMHSP. EITHER THE CMHSP OR THE REFERRING SCHOOL DISTRICT SHALL  
13 IMPLEMENT THE AGREED UPON PLAN OF SERVICES ACCORDING TO THE PLAN  
14 RECOMMENDATION. IF THE PLAN RECOMMENDATION CALLS FOR THE CMHSP  
15 ALONE TO IMPLEMENT THE PLAN OF SERVICES, THE EXPENSE FOR THE PLAN  
16 IMPLEMENTATION SHALL NOT BE CHARGED TO THE REFERRING SCHOOL  
17 DISTRICT.

18 (4) IF A CMHSP'S RECOMMENDATION INCLUDES A PLAN OF SERVICES  
19 THAT THE REFERRING SCHOOL DISTRICT OR A REFERRED MINOR'S PARENT  
20 OR GUARDIAN BELIEVES IS INAPPROPRIATE OR INADEQUATE FOR THE  
21 REFERRED MINOR, THE CMHSP AND THE REFERRING SCHOOL DISTRICT AND  
22 THE REFERRED MINOR'S PARENT OR GUARDIAN SHALL WORK TOGETHER TO  
23 DEVELOP A COORDINATED PLAN OF SERVICES THAT IS ACCEPTABLE TO THE  
24 SCHOOL DISTRICT, THE CMHSP, AND THE MINOR'S PARENT OR GUARDIAN.

25 (5) IF A CMHSP'S RECOMMENDATION IS THAT THE REFERRED MINOR  
26 DOES NOT NEED SERVICES PROVIDED BY THE CMHSP OR IF THE CMHSP, THE  
27 REFERRING SCHOOL DISTRICT, AND THE REFERRED MINOR'S PARENT OR



1 GUARDIAN ARE UNABLE TO AGREE ON A COORDINATED PLAN OF SERVICES AS  
2 REQUIRED UNDER SUBSECTION (4), THE REFERRING SCHOOL DISTRICT,  
3 PARENT, OR GUARDIAN MAY PETITION THE COURT FOR AN EMERGENCY HEAR-  
4 ING TO DETERMINE IF THE MINOR MEETS THE CRITERIA OF AN INDIVIDUAL  
5 REQUIRING SERVICES UNDER SECTION 208. THE COURT SHALL MAKE A  
6 DETERMINATION AS TO WHETHER THE MINOR MEETS THE CRITERIA OF AN  
7 INDIVIDUAL REQUIRING SERVICES UNDER SECTION 208. IN MAKING THAT  
8 DETERMINATION, THE COURT MAY CONSIDER INFORMATION PRESENTED BY A  
9 PARENT OR GUARDIAN, THE REFERRING SCHOOL DISTRICT, AND THE  
10 CMHSP. AT THE COURT'S DISCRETION, THE COURT MAY CONSIDER INFOR-  
11 MATION PROVIDED AS THE RESULT OF AN INDEPENDENT EVALUATION BY AN  
12 EXPERT CHOSEN BY THE COURT.

13 (6) ACCORDING TO SUBSECTION (5), IF THE COURT DETERMINES  
14 THAT THE MINOR MEETS THE CRITERIA OF AN INDIVIDUAL REQUIRING  
15 SERVICES UNDER SECTION 208, THE COURT SHALL ORDER THE REFERRING  
16 SCHOOL DISTRICT AND THE CMHSP TO COOPERATE WITH THE MINOR'S  
17 PARENT OR GUARDIAN TO DEVELOP A COORDINATED PLAN OF SERVICES FOR  
18 THE MINOR. IF THE PLAN OF SERVICES DEVELOPED UNDER THIS SUBSEC-  
19 TION REQUIRES PROVIDING MENTAL HEALTH SERVICES BY A CMHSP, THE  
20 SERVICES PROVIDED BY THAT CMHSP SHALL BE PAID FOR ACCORDING TO  
21 THE PROVISIONS OF CHAPTER 8.

22 (7) AS USED IN THIS SECTION, "SCHOOL DISTRICT" MEANS A  
23 SCHOOL DISTRICT ORGANIZED UNDER THE REVISED SCHOOL CODE, 1976  
24 PA 451, MCL 380.1 TO 380.1852, OR A DISTRICT GOVERNED BY A SPE-  
25 CIAL OR LOCAL ACT.