

SENATE BILL No. 939

January 11, 2006, Introduced by Senators BARCIA, CROPSEY, JACOBS, BERNERO and GOSCHKA and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 744, 1026, 1028, 1030, 1032, 1034, 1044, and 1050 (MCL 330.1744, 330.2026, 330.2028, 330.2030, 330.2032, 330.2034, 330.2044, and 330.2050), section 744 as amended by 1995 PA 290, and by adding sections 1049, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, and 1082; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 744. (1) The freedom of movement of a recipient shall not
2 be restricted more than is necessary to provide mental health
3 services to him or her, to prevent injury to him or her or to

1 others, or to prevent substantial property damage, except that
2 security precautions **AND OTHER FREEDOM OF MOVEMENT RESTRICTIONS**
3 appropriate to the condition and circumstances of an individual
4 admitted by order of a criminal court, ~~or transferred as a~~
5 ~~sentence-serving convict from a penal institution~~ **AN INDIVIDUAL**
6 **FOUND NOT GUILTY BY REASON OF INSANITY, OR AN INDIVIDUAL**
7 **HOSPITALIZED AS A RESULT OF A PETITION FILED UNDER SECTION 1034(3)**
8 may be taken.

9 (2) A restriction adopted under the authority of subsection
10 (1), the date it expires, and justification for its adoption shall
11 be promptly noted in the **RECIPIENT'S** record. ~~of the recipient.~~

12 (3) A restriction adopted under the authority of subsection
13 (1) shall be removed when the circumstance that justified its
14 adoption ceases to exist.

15 Sec. 1026. (1) Upon a showing that the defendant may be
16 incompetent to stand trial, the court shall order the defendant to
17 undergo an examination by personnel of ~~either~~ the center for
18 forensic psychiatry. ~~or other facility officially certified by the~~
19 ~~department of mental health to perform examinations relating to the~~
20 ~~issue of incompetence to stand trial.~~ The defendant shall make
21 himself **OR HERSELF** available for the examination at the places and
22 times established by the center. ~~or other certified facility.~~ If
23 the defendant, after being notified, fails to make himself **OR**
24 **HERSELF** available for the examination, the court may order his **OR**
25 **HER** commitment to the center ~~or other facility~~ without a hearing.

26 (2) ~~When~~ **IF** the defendant is to be held in a jail or similar
27 place of detention pending trial, the center or other facility may

1 perform the examination in the jail or may notify the sheriff to
2 transport the defendant to the center or other facility for the
3 examination, and the sheriff shall return the defendant to the jail
4 upon completion of the examination.

5 (3) Except as provided in subsection (1), ~~when~~ **IF** the
6 defendant is not to be held in a jail or similar place of detention
7 pending trial, the court shall commit him **OR HER** to the center ~~or~~
8 ~~other facility~~ only ~~when~~ **IF** the commitment is necessary ~~for the~~
9 ~~performance of~~ **TO PERFORM** the examination.

10 (4) The defendant shall be released by the center ~~or other~~
11 ~~facility~~ upon completion of the examination.

12 Sec. 1028. (1) When the defendant is ordered to undergo an
13 examination ~~pursuant~~ **ACCORDING** to section 1026, the center ~~or~~
14 ~~other facility~~ shall, for the purpose of gathering psychiatric and
15 other information pertinent to the issue of the incompetence of the
16 defendant to stand trial, examine the defendant and, **IF POSSIBLE**,
17 consult with defense counsel, and may consult with the prosecutor
18 or other persons. Defense counsel shall make himself **OR HERSELF**
19 available for consultation with the center. ~~or other facility.~~
20 The examination shall be performed, defense counsel consulted, and
21 a written report submitted to the court, prosecuting attorney, and
22 defense counsel within 60 days of the date of the order.

23 (2) The report shall contain:

24 (a) The clinical findings of the center. ~~or other facility.~~

25 (b) The facts, in reasonable detail, upon which the findings
26 are based, and upon request of the court, defense, or prosecution
27 additional facts germane to the findings.

1 (c) The opinion of the center ~~or other facility~~ on the issue
2 of the incompetence of the defendant to stand trial.

3 (d) If the opinion is that the defendant is incompetent to
4 stand trial, the opinion of the center ~~or other facility~~ on the
5 likelihood of the defendant attaining competence to stand trial, if
6 provided a course of treatment, within the time limit established
7 by section 1034.

8 (3) The opinion concerning competency to stand trial derived
9 from the examination may not be admitted as evidence for any
10 purpose in the pending criminal proceedings, except on the issues
11 to be determined in the hearings required or permitted by sections
12 1030 and 1040. The foregoing bar of testimony ~~shall not be~~
13 ~~construed to~~ **DOES NOT** prohibit the examining qualified clinician
14 from presenting at other stages in the criminal proceedings
15 opinions concerning criminal responsibility, disposition, or other
16 issues if they were originally requested by the court and are
17 available. Information gathered in the course of a prior
18 examination that is of ~~historical~~ value to the examining
19 qualified clinician may be utilized in the formulation of an
20 opinion in any subsequent court ordered evaluation.

21 Sec. 1030. (1) Upon receipt of the written report, the court
22 shall cause the defendant to appear in court and shall hold a
23 hearing within 5 days or upon the conclusion of the case,
24 proceeding, or other matter then before it, whichever is sooner,
25 unless the defense or prosecution for good cause requests a delay
26 for a reasonable time.

27 (2) On the basis of the evidence admitted at the hearing, the

1 court shall determine the issue of the incompetence of the
2 defendant to stand trial. If the defendant is determined
3 incompetent to stand trial, the court shall also determine whether
4 there is a substantial probability that the defendant, if provided
5 a course of treatment, will attain competence to stand trial within
6 the time limit established by section 1034.

7 (3) The written report ~~shall be~~ **IS** admissible as competent
8 evidence in the hearing, unless the defense or prosecution objects,
9 but not for any other purpose in the pending criminal proceeding.
10 The defense, prosecution, and the court on its own motion may
11 present additional evidence relevant to the issues to be determined
12 at the hearing.

13 (4) If the defendant is receiving medication and is not
14 determined incompetent to stand trial, the court may, in order to
15 maintain the competence of the defendant to stand trial, make ~~such~~
16 orders ~~as it deems~~ **THAT IT CONSIDERS** appropriate for the
17 continued administration of ~~such~~ medication pending and during
18 trial. **A COURT'S ORDER UNDER THIS SECTION SHALL NOT APPOINT A**
19 **HOSPITAL OR CENTER AS THE PROVIDER OF TREATMENT UNLESS THAT**
20 **HOSPITAL OR CENTER AGREES TO BE THE PROVIDER OF TREATMENT.**

21 Sec. 1032. (1) If the defendant is determined incompetent to
22 stand trial, and if the court determines that there is a
23 substantial probability that, if provided a course of treatment, he
24 **OR SHE** will attain competence to stand trial within the time limit
25 established by section 1034, the court shall order ~~him~~ **THE**
26 **DEFENDANT** to undergo treatment to render him **OR HER** competent to
27 stand trial.

1 (2) The court shall appoint a medical supervisor of the course
2 of treatment. The **MEDICAL** supervisor may be any person or agency
3 willing to supervise the course of treatment, or the department.
4 ~~of mental health.~~ **IF THE DEFENDANT IS A PRISONER SERVING A**
5 **SENTENCE, THE COURT SHALL APPOINT THE CORRECTIONS MENTAL HEALTH**
6 **PROGRAM AS THE MEDICAL SUPERVISOR OF TREATMENT.**

7 (3) The court may commit the defendant to the custody of the
8 department, ~~of mental health,~~ or to the custody of any other
9 inpatient mental health facility if it agrees, only if commitment
10 is necessary for the effective administration of the course of
11 treatment. If the defendant, absent commitment to the department
12 ~~of mental health~~ or other inpatient **MENTAL HEALTH** facility, would
13 otherwise be held in a jail or similar place of detention pending
14 trial, the court may enter an order restricting the defendant in
15 his **OR HER** movements to the buildings and grounds of the facility
16 at which he **OR SHE** is to be treated.

17 Sec. 1034. (1) No order or combination of orders issued under
18 section 1032 or 1040, or both, shall have force and effect for a
19 total period **OF TREATMENT** in excess of 15 months or 1/3 of the
20 maximum sentence the defendant could receive if convicted of the
21 charges against him **OR HER**, whichever is lesser; nor after the
22 charges against the defendant are dismissed.

23 (2) The court shall provide for notification of defense
24 counsel, the prosecution, and the medical supervisor of treatment
25 whenever the charges against the defendant are dismissed and
26 whenever an order ~~whose~~ **THAT HAS A** stated time period **THAT** has
27 not elapsed is voided by the court.

1 (3) If the defendant is to be discharged or released because
2 of the expiration of an order ~~or orders~~ under section 1032 or
3 1040, the **MEDICAL** supervisor of treatment ~~prior to~~ **BEFORE** the
4 discharge or release may file a petition asserting that the
5 defendant is a person requiring treatment as defined by section 401
6 or meets the criteria for judicial admission as defined by section
7 515 with the probate court of the defendant's county of residence.

8 Sec. 1044. (1) The charges against a defendant determined
9 incompetent to stand trial shall be dismissed **IF EITHER OF THE**
10 **FOLLOWING OCCURS:**

11 (a) ~~When~~ **IF** the prosecutor notifies the court of his **OR HER**
12 intention not to prosecute the case. ~~;~~ ~~or~~

13 (b) ~~Fifteen months after the date on which the defendant was~~
14 ~~originally determined incompetent to stand trial.~~ **IF THE DEFENDANT**
15 **HAS BEEN TREATED FOR RESTORATION TO COMPETENCY FOR A TOTAL OF 15**
16 **MONTHS OR THE MAXIMUM PERIOD SPECIFIED IN SECTION 1034, AND THE**
17 **DEFENDANT HAS NOT BEEN RESTORED TO COMPETENCY.**

18 (2) **IF A DEFENDANT INTERRUPTS THE REQUIRED PERIOD OF TREATMENT**
19 **BY ESCAPING OR BY BEING ABSENT WITHOUT AUTHORIZATION, THE CHARGES**
20 **AGAINST THE DEFENDANT SHALL NOT BE DISMISSED UNTIL THE MAXIMUM**
21 **PERIOD OF TREATMENT HAS BEEN REACHED.**

22 (3) ~~(2) When~~ **IF** charges are dismissed ~~pursuant~~ **ACCORDING**
23 to subsection (1), the same charges, or other charges arising from
24 the transaction ~~which~~ **THAT** gave rise to the dismissed charges,
25 shall not subsequently be filed against the defendant, except as
26 provided in this section.

27 (4) ~~(3)~~ **IF** the charges were dismissed ~~pursuant~~ **ACCORDING**

1 to subsection ~~(1)(b)~~ **(1)(B)** and if the crime charged was
 2 punishable by a sentence of life imprisonment, the prosecutor may
 3 at any time petition the court for permission to again file
 4 charges. In the case of other charges dismissed ~~pursuant~~
 5 **ACCORDING** to subsection ~~(1)(b)~~ **(1)(B)**, the prosecutor may,
 6 within that period of time after the charges were dismissed equal
 7 to 1/3 of the maximum sentence that the defendant could receive on
 8 the charges, petition the court for permission to again file
 9 charges.

10 (5) ~~(4)~~ The court shall grant permission to again file
 11 charges if after a hearing it determines that the defendant is
 12 competent to stand trial. ~~Prior to~~ **BEFORE** the hearing, the court
 13 may order the defendant to be examined by personnel of the center
 14 for forensic psychiatry ~~or other qualified person~~ as an
 15 outpatient, but may not commit the defendant to the center ~~or any~~
 16 ~~other facility~~ for the examination.

17 **SEC. 1049. AS USED IN SECTIONS 1050 TO 1081:**

18 (A) "INDIVIDUAL FOUND NGRI" MEANS AN INDIVIDUAL WHO COMMITTED
 19 A CRIMINAL ACT AND WAS FOUND NOT GUILTY BY REASON OF INSANITY
 20 (NGRI) IN A CRIMINAL PROCEEDING.

21 (B) "INDIVIDUAL FOUND NGRI REQUIRING TREATMENT" MEANS EITHER
 22 OF THE FOLLOWING:

23 (i) AN INDIVIDUAL FOUND NGRI WHO HAS A MENTAL ILLNESS AND, AS A
 24 RESULT, CANNOT APPRECIATE THE NEED FOR TREATMENT, IS UNABLE TO
 25 COMPLY WITH TREATMENT, OR WILL, WITH REASONABLE CLINICAL CERTAINTY,
 26 POSE A DANGER TO SELF OR OTHERS WITHOUT TREATMENT.

27 (ii) AN INDIVIDUAL FOUND NGRI WHO HAS MENTAL RETARDATION AND,

1 AS A RESULT, CANNOT APPRECIATE THE NEED FOR TREATMENT, IS UNABLE TO
2 COMPLY WITH TREATMENT, OR WILL, WITH REASONABLE CLINICAL CERTAINTY,
3 POSE A DANGER TO SELF OR OTHERS WITHOUT TREATMENT.

4 (C) "LEIN" MEANS THE LAW ENFORCEMENT INFORMATION NETWORK
5 REGULATED UNDER THE L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA
6 163, MCL 28.211 TO 28.216.

7 (D) "MENTAL ILLNESS" MEANS A SUBSTANTIAL DISORDER OF THOUGHT
8 OR MOOD THAT SIGNIFICANTLY IMPAIRS JUDGMENT, BEHAVIOR, CAPACITY TO
9 RECOGNIZE REALITY, OR ABILITY TO COPE WITH THE ORDINARY DEMANDS OF
10 LIFE. MENTAL ILLNESS INCLUDES A SUBSTANTIAL DISORDER OF THOUGHT OR
11 MOOD THAT IS IN A STATE OF REMISSION AND THAT WILL, WITH REASONABLE
12 CERTAINTY, BECOME ACTIVE WITHOUT CONTINUED TREATMENT.

13 (E) "MENTAL RETARDATION" MEANS A SIGNIFICANTLY SUBAVERAGE
14 GENERAL INTELLECTUAL FUNCTIONING THAT ORIGINATES DURING THE
15 DEVELOPMENTAL PERIOD AND IS ASSOCIATED WITH IMPAIRMENT IN ADAPTIVE
16 BEHAVIOR.

17 (F) "ORDER FOR INVOLUNTARY NGRI TREATMENT" MEANS A COURT ORDER
18 REQUIRING AN INDIVIDUAL FOUND NGRI TO COMPLY WITH TREATMENT AND
19 SUPERVISION APPROPRIATE FOR HIS OR HER MENTAL ILLNESS OR MENTAL
20 RETARDATION. THE CENTER FOR FORENSIC PSYCHIATRY SHALL MAKE THE
21 DETERMINATION OF THE SETTING IN WHICH AN INDIVIDUAL FOUND NGRI WILL
22 BE TREATED UNDER AN ORDER FOR INVOLUNTARY NGRI TREATMENT. THE
23 TREATMENT SETTING MAY INCLUDE THE CENTER FOR FORENSIC PSYCHIATRY,
24 ANOTHER HOSPITAL OR CENTER, OR COMMUNITY PROGRAM AUTHORIZED BY THE
25 CENTER.

26 Sec. 1050. (1) The court shall immediately commit ~~any person~~
27 AN INDIVIDUAL who is acquitted of a criminal charge by reason of

1 insanity to the custody of the center for forensic psychiatry —
2 for a period ~~not to exceed~~ OF 60 days. The ~~court~~ PROSECUTING
3 ATTORNEY shall forward to the center FOR FORENSIC PSYCHIATRY a
4 full report ~~, in the form of a settled record, of the facts~~
5 ~~concerning the crime which the patient~~ THAT INCLUDES, AT A
6 MINIMUM, A LIST OF THE CRIMINAL ACTS THAT THE INDIVIDUAL was found
7 to have committed but of which he OR SHE was acquitted by reason of
8 insanity, THE FACTS ESTABLISHED ABOUT THE CRIMINAL ACTS, AND A
9 STATEMENT OF THE MAXIMUM SENTENCE THAT THE INDIVIDUAL COULD HAVE
10 RECEIVED HAD HE OR SHE BEEN FOUND GUILTY. THE REPORT SHALL BE
11 ENTITLED "NGRI PETITION", SHALL SERVE AS THE PETITION, AND SHALL BE
12 ADMISSIBLE IN SUBSEQUENT PROCEEDINGS. The center shall thoroughly
13 examine and evaluate the ~~present mental condition of the person~~
14 INDIVIDUAL FOUND NGRI in order to reach an opinion on whether the
15 ~~person~~ HE OR SHE meets the criteria of ~~a person requiring~~ AN
16 INDIVIDUAL FOUND NGRI WHO REQUIRES treatment. ~~or for judicial~~
17 ~~admission set forth in section 401 or 515.~~ IF THE CENTER FOR
18 FORENSIC PSYCHIATRY CONSIDERS IT NECESSARY, THE INDIVIDUAL FOUND
19 NGRI MAY BE SENT TO ANOTHER TREATMENT FACILITY FOR THE DURATION OF
20 THE 60-DAY EVALUATION PERIOD.

21 (2) A PRISONER WHO IS ACQUITTED OF A SUBSEQUENT CRIMINAL
22 CHARGE BY REASON OF INSANITY SHALL REMAIN UNDER THE JURISDICTION OF
23 THE DEPARTMENT OF CORRECTIONS FOR THE DURATION OF THE ORIGINAL
24 CRIMINAL SENTENCE. AT THE TIME OF THE NGRI FINDING, THE COURT SHALL
25 IMMEDIATELY ISSUE AN ORDER FOR EXAMINATION OF THE PRISONER FOUND
26 NGRI. THE PROSECUTING ATTORNEY SHALL FORWARD TO THE CENTER A REPORT
27 THAT INCLUDES A LIST OF THE CRIMINAL ACTS THAT THE PRISONER WAS

1 FOUND TO HAVE COMMITTED BUT OF WHICH HE OR SHE WAS ACQUITTED BY
2 REASON OF INSANITY, THE FACTS ESTABLISHED ABOUT THE ACTS, AND A
3 STATEMENT OF THE MAXIMUM SENTENCE THAT THE PRISONER FOUND NGRI
4 COULD HAVE RECEIVED HAD HE OR SHE BEEN FOUND GUILTY. THE REPORT
5 SHALL BE ENTITLED "NGRI PETITION", SHALL SERVE AS THE PETITION, AND
6 IS ADMISSIBLE IN SUBSEQUENT PROCEEDINGS. THE EXAMINATION OF THE
7 PRISONER FOUND NGRI SHALL BE HELD IN ABEYANCE UNTIL 60 DAYS BEFORE
8 THE DEPARTMENT OF CORRECTIONS' SCHEDULED RELEASE OF THE PRISONER
9 FOUND NGRI, AT WHICH TIME THE DEPARTMENT OF CORRECTIONS SHALL
10 NOTIFY THE CENTER OF THE PRISONER FOUND NGRI'S PENDING RELEASE AND
11 SHALL MAKE ARRANGEMENTS WITH THE CENTER TO TRANSPORT THE PRISONER
12 FOUND NGRI TO THE CENTER FOR EVALUATION. THE CENTER SHALL
13 THOROUGHLY EXAMINE AND EVALUATE THE PRISONER FOUND NGRI IN ORDER TO
14 REACH AN OPINION ON WHETHER HE OR SHE MEETS THE CRITERIA OF AN
15 INDIVIDUAL FOUND NGRI REQUIRING TREATMENT.

16 (3) ~~(2)~~ Within the 60-day period SPECIFIED IN SUBSECTIONS
17 (1) AND (2) the center shall file a report with the court,
18 prosecuting attorney, and defense counsel. The report shall contain
19 a summary of the ~~crime which the patient committed but of which he~~
20 **CRIMINAL ACTS OF WHICH THE INDIVIDUAL** was acquitted by reason of
21 insanity, ~~and~~ an opinion as to whether the ~~person~~ **INDIVIDUAL**
22 **FOUND NGRI** meets the criteria of ~~a person~~ **AN INDIVIDUAL FOUND**
23 **NGRI** requiring treatment, ~~or for judicial admission as defined by~~
24 ~~section 401 or 515,~~ and the facts upon which the opinion is based.
25 If the opinion stated is that the person is ~~a person~~ **AN**
26 **INDIVIDUAL FOUND NGRI** requiring treatment, the report shall be
27 accompanied by **CLINICAL** certificates from 2 ~~physicians, at least 1~~

1 ~~of whom shall be a psychiatrist, which conform to the requirements~~
2 ~~of section 400(j)~~ **PSYCHIATRISTS OR 1 CLINICAL CERTIFICATE FROM A**
3 **PSYCHIATRIST AND 1 CLINICAL CERTIFICATE FROM A LICENSED**
4 **PSYCHOLOGIST.**

5 (4) ~~(3)~~ After receipt of ~~the~~ **A report STATING THAT AN**
6 **INDIVIDUAL FOUND NGRI IS AN INDIVIDUAL FOUND NGRI REQUIRING**
7 **TREATMENT**, the ~~court may direct the~~ prosecuting attorney ~~to~~
8 **SHALL** file ~~a~~ **AN NGRI** petition ~~pursuant to section 434 or 516~~
9 **UNDER SECTION 1034** for an order ~~of hospitalization or an order of~~
10 ~~admission to a facility~~ **FOR INVOLUNTARY NGRI TREATMENT** with the
11 probate court of the person's county of residence or, **IF THE**
12 **INDIVIDUAL FOUND NGRI DOES NOT HAVE A COUNTY OF RESIDENCE IN THIS**
13 **STATE**, of the county in which the criminal trial was held. ~~Any~~
14 **THE** certificates that accompanied the report of the center ~~may~~
15 **SHALL** be filed with the **NGRI** petition ~~,~~ and ~~shall be~~ **ARE**
16 sufficient to cause a hearing to be held ~~pursuant to~~ **UNDER**
17 section ~~451~~ **1056** even if ~~they~~ **THE CERTIFICATES** were not
18 executed within 72 hours of the filing of the **NGRI** petition. The
19 ~~report from the court containing the facts concerning the crime for~~
20 ~~which he was acquitted by reason of insanity shall be admissible in~~
21 ~~the hearings~~ **NGRI PETITION IS ADMISSIBLE IN A HEARING HELD AS A**
22 **RESULT OF A PETITION FILED UNDER THIS SUBSECTION AND IN SUBSEQUENT**
23 **HEARINGS.**

24 (5) ~~(4)~~ If the **CENTER FOR FORENSIC PSYCHIATRY'S** report
25 states the opinion that the ~~person~~ **INDIVIDUAL FOUND NGRI** meets
26 the criteria of ~~a person~~ **AN INDIVIDUAL FOUND NGRI** requiring
27 treatment, ~~or for judicial admission, and if a petition is to be~~

1 ~~filed pursuant to subsection (3), the center may retain the~~
2 ~~person HIM OR HER pending a hearing on the NGRI petition. If a~~
3 ~~petition is not to be filed, the prosecutor shall notify the center~~
4 ~~in writing. The center, upon receipt of the notification, shall~~
5 ~~cause the person to be discharged.~~

6 ~~— (5) The release provisions of sections 476 to 479 of this act~~
7 ~~shall apply to a person found to have committed a crime by a court~~
8 ~~or jury, but who is acquitted by reason of insanity, except that a~~
9 ~~person shall not be discharged or placed on leave without first~~
10 ~~being evaluated and recommended for discharge or leave by the~~
11 ~~department's program for forensic psychiatry, and authorized leave~~
12 ~~or absence from the hospital may be extended for a period of 5~~
13 ~~years.~~

14 (6) AN INDIVIDUAL FOUND NGRI WHO HAS BEEN FOUND TO BE AN
15 INDIVIDUAL FOUND NGRI REQUIRING TREATMENT AND PLACED ON AN ORDER
16 FOR INVOLUNTARY NGRI TREATMENT UNDER SECTION 1053 SHALL BE
17 HOSPITALIZED, TRANSFERRED, OR PLACED IN THE COMMUNITY ONLY BY
18 AUTHORIZATION OF THE CENTER FOR FORENSIC PSYCHIATRY. IN AUTHORIZING
19 OR NOT AUTHORIZING HOSPITALIZATION, TRANSFER, OR COMMUNITY
20 PLACEMENT, THE CENTER FOR FORENSIC PSYCHIATRY SHALL HAVE AS ITS
21 PRIMARY CONCERNS THE NEED FOR ADEQUATE PROTECTION OF THE PUBLIC AND
22 THE AVAILABILITY OF APPROPRIATE TREATMENT FOR THE INDIVIDUAL FOUND
23 NGRI.

24 (7) AT LEAST 7 DAYS BEFORE A TRANSFER, THE INDIVIDUAL FOUND
25 NGRI AND HIS OR HER GUARDIAN OR NEAREST RELATIVE SHALL BE NOTIFIED,
26 EXCEPT IF THE TRANSFER IS NECESSITATED BY AN EMERGENCY. AN
27 INDIVIDUAL FOUND NGRI MAY DESIGNATE UP TO 2 OTHER INDIVIDUALS TO

1 RECEIVE NOTICE. IF A TRANSFER IS NECESSITATED BY AN EMERGENCY,
2 NOTICE SHALL BE GIVEN AS SOON AS POSSIBLE, BUT NOT LATER THAN 24
3 HOURS AFTER THE TRANSFER. IF THE INDIVIDUAL FOUND NGRI OR HIS OR
4 HER GUARDIAN OR NEAREST RELATIVE OBJECTS TO THE TRANSFER, THE
5 DEPARTMENT SHALL PROVIDE AN OPPORTUNITY TO APPEAL THE TRANSFER.

6 (8) A COMMUNITY MENTAL HEALTH SERVICES PROGRAM SHALL PROVIDE
7 SERVICES TO BOTH OF THE FOLLOWING:

8 (A) AN INDIVIDUAL FOUND NGRI ON AN ORDER FOR INVOLUNTARY NGRI
9 TREATMENT WHO RESIDED WITHIN THE COMMUNITY MENTAL HEALTH SERVICES
10 PROGRAM'S GEOGRAPHIC SERVICE AREA AT THE TIME HE OR SHE WAS FOUND
11 TO BE NOT GUILTY BY REASON OF INSANITY AND WHO IS PLACED IN THE
12 COMMUNITY.

13 (B) AN INDIVIDUAL FOUND NGRI ON AN ORDER FOR INVOLUNTARY NGRI
14 TREATMENT WHO COMMITTED THE ACT FOR WHICH HE OR SHE WAS FOUND TO BE
15 NOT GUILTY BY REASON OF INSANITY WITHIN THE COMMUNITY MENTAL HEALTH
16 SERVICES PROGRAM'S GEOGRAPHIC SERVICE AREA, WHO WAS WITHOUT A
17 COUNTY OF RESIDENCE IN THIS STATE AT THE TIME HE OR SHE COMMITTED
18 THE ACT, AND WHO WAS PLACED IN THE COMMUNITY.

19 (9) AT THE END OF THE PERIOD SPECIFIED BY AN ORDER FOR
20 INVOLUNTARY TREATMENT, THE PROSECUTOR MAY FILE A PETITION ACCORDING
21 TO SECTION 434 OR 516 ASSERTING THAT THE INDIVIDUAL FOUND NGRI IS A
22 PERSON REQUIRING TREATMENT OR JUDICIAL ADMISSION.

23 SEC. 1052. (1) IT IS A CRIME PUNISHABLE BY NOT MORE THAN 2
24 YEARS FOR AN INDIVIDUAL FOUND NGRI ON AN ORDER FOR INVOLUNTARY NGRI
25 TO DO 1 OR MORE OF THE FOLLOWING:

26 (A) LEAVE A DEPARTMENT HOSPITAL OR CENTER WITHOUT
27 AUTHORIZATION FROM THE CENTER FOR FORENSIC PSYCHIATRY.

1 (B) REFUSE TO COMPLY WITH A REQUEST TO RETURN TO THE CUSTODY
2 OF A DEPARTMENT HOSPITAL OR CENTER.

3 (C) LEAVE THIS STATE WITHOUT AUTHORIZATION FROM THE CENTER FOR
4 FORENSIC PSYCHIATRY.

5 (2) AN INDIVIDUAL FOUND NGRI ON AN ORDER FOR INVOLUNTARY NGRI
6 TREATMENT WHO LEAVES A DEPARTMENT HOSPITAL OR CENTER WITHOUT
7 AUTHORIZATION, REFUSES TO COMPLY WITH A REQUEST TO RETURN TO THE
8 CUSTODY OF A DEPARTMENT HOSPITAL OR CENTER, OR LEAVES THE STATE
9 WITHOUT AUTHORIZATION SHALL BE RETURNED TO THE CUSTODY OF THE
10 CENTER FOR FORENSIC PSYCHIATRY OR OF ANOTHER DEPARTMENT HOSPITAL OR
11 CENTER, AS AUTHORIZED BY THE CENTER FOR FORENSIC PSYCHIATRY.

12 (3) AN ORDER FOR INVOLUNTARY NGRI TREATMENT FOR AN INDIVIDUAL
13 FOUND NGRI SHALL BE HELD IN ABEYANCE FOR A PERIOD OF TIME THAT HE
14 OR SHE IS ABSENT WITHOUT AUTHORIZATION FROM HIS OR HER TREATMENT
15 SETTING. THE TERMS AND CONDITIONS OF THE ORDER SHALL BE REINSTATED
16 UP TO THE MAXIMUM REMAINING TIME SPECIFIED IN THE ORDER.

17 SEC. 1053. THE PROSECUTING ATTORNEY SHALL FILE THE NGRI
18 PETITION WITH THE PROBATE COURT OF THE COUNTY OF RESIDENCE OF THE
19 INDIVIDUAL FOUND NGRI OR OF THE COUNTY IN WHICH THE CRIMINAL TRIAL
20 WAS HELD. BY FILING THE NGRI PETITION AS DESCRIBED IN THIS SECTION,
21 THE PROSECUTING ATTORNEY ASSERTS THAT THE INDIVIDUAL FOUND NGRI IS
22 AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT. THE CLINICAL
23 CERTIFICATES COMPLETED UNDER SECTION 1050(3) FROM 2 PSYCHIATRISTS
24 OR FROM 1 PSYCHIATRIST AND 1 LICENSED PSYCHOLOGIST SHALL ACCOMPANY
25 THE NGRI PETITION.

26 SEC. 1054. THERE IS NO CAUSE OF ACTION IN A COURT OF THIS
27 STATE AGAINST A PERSON WHO IN GOOD FAITH FILES AN NGRI PETITION OR

1 EXECUTES A CLINICAL CERTIFICATE UNDER THIS CHAPTER ALLEGING THAT AN
2 INDIVIDUAL FOUND NGRI IS AN INDIVIDUAL FOUND NGRI REQUIRING
3 TREATMENT, UNLESS THE NGRI PETITION IS FILED OR THE CLINICAL
4 CERTIFICATE IS EXECUTED AS A RESULT OF AN ACT OR OMISSION AMOUNTING
5 TO GROSS NEGLIGENCE OR WILLFUL AND WANTON MISCONDUCT.

6 SEC. 1055. A COURT HEARING CONVENED UNDER THIS CHAPTER IS
7 GOVERNED BY SECTIONS 1056 TO 1067.

8 SEC. 1056. THE COURT SHALL SET A DATE FOR A HEARING UNDER THIS
9 CHAPTER PROMPTLY, BUT NOT MORE THAN 7 BUSINESS DAYS AFTER THE COURT
10 RECEIVES 1 OF THE FOLLOWING:

11 (A) AN NGRI PETITION FOR DETERMINATION THAT AN INDIVIDUAL
12 FOUND NGRI IS AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT AND
13 CLINICAL CERTIFICATES FROM 2 PSYCHIATRISTS OR FROM 1 PSYCHIATRIST
14 AND 1 LICENSED PSYCHOLOGIST.

15 (B) A PETITION FOR DISCHARGE FILED UNDER SECTION 1075.

16 (C) NOTIFICATION FROM THE DIRECTOR OF THE CENTER FOR FORENSIC
17 PSYCHIATRY THAT, IN THE OPINION OF THE CENTER FOR FORENSIC
18 PSYCHIATRY, THE INDIVIDUAL FOUND NGRI NO LONGER MEETS THE CRITERIA
19 OF AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT.

20 SEC. 1057. (1) THE COURT SHALL GIVE NOTICE OF A PETITION AND
21 OF THE TIME AND PLACE OF A HEARING FILED UNDER SECTION 1056 TO THE
22 INDIVIDUAL FOUND NGRI, HIS OR HER ATTORNEY, THE PETITIONER, THE
23 PROSECUTING ATTORNEY OR OTHER ATTORNEY PROVIDED FOR IN SECTION
24 1061, THE HOSPITAL DIRECTOR OF A HOSPITAL IN WHICH THE INDIVIDUAL
25 FOUND NGRI IS HOSPITALIZED, THE SPOUSE OF THE INDIVIDUAL FOUND NGRI
26 IF HIS OR HER WHEREABOUTS ARE KNOWN, THE GUARDIAN OF THE INDIVIDUAL
27 FOUND NGRI, AND OTHER RELATIVES OR INDIVIDUALS AS THE COURT MAY

1 DETERMINE. NOTICE SHALL BE GIVEN AT THE EARLIEST PRACTICABLE TIME
2 AND SUFFICIENTLY IN ADVANCE OF THE HEARING DATE TO PERMIT
3 PREPARATION FOR THE HEARING.

4 (2) WITHIN 4 DAYS OF THE COURT'S RECEIPT OF THE CLINICAL
5 CERTIFICATES DESCRIBED IN SECTION 1056(A), THE COURT SHALL CAUSE
6 THE INDIVIDUAL FOUND NGRI TO BE GIVEN A COPY OF THE NGRI PETITION,
7 A COPY OF EACH CLINICAL CERTIFICATE EXECUTED IN CONNECTION WITH THE
8 HEARING, NOTICE OF THE RIGHT TO A FULL COURT HEARING, NOTICE OF THE
9 RIGHT TO BE PRESENT AT THE HEARING, NOTICE OF THE RIGHT TO BE
10 REPRESENTED BY LEGAL COUNSEL, NOTICE OF THE RIGHT TO DEMAND A JURY
11 TRIAL, AND NOTICE OF THE RIGHT TO AN INDEPENDENT CLINICAL
12 EVALUATION.

13 SEC. 1058. (1) AN INDIVIDUAL FOUND NGRI WHO IS THE SUBJECT OF
14 AN NGRI PETITION IS ENTITLED TO BE REPRESENTED BY LEGAL COUNSEL.

15 (2) WITHIN 48 HOURS AFTER THE COURT'S RECEIPT OF A PETITION
16 AND THE OTHER DOCUMENTS FILED UNDER SECTION 1056, UNLESS AN
17 APPEARANCE HAS BEEN ENTERED ON BEHALF OF THE INDIVIDUAL FOUND NGRI,
18 THE COURT SHALL APPOINT LEGAL COUNSEL TO REPRESENT THE SUBJECT OF
19 THE NGRI PETITION.

20 (3) AFTER CONSULTATION WITH APPOINTED COUNSEL, IF THE
21 INDIVIDUAL FOUND NGRI DESIRES TO WAIVE HIS OR HER RIGHT TO COUNSEL,
22 HE OR SHE MAY DO SO BY NOTIFYING THE COURT IN WRITING.

23 (4) IF THE INDIVIDUAL FOUND NGRI PREFERS COUNSEL OTHER THAN
24 THE APPOINTED COUNSEL, THE PREFERRED COUNSEL ACCEPTS THE
25 APPOINTMENT, AND THE COURT IS NOTIFIED OF THE PREFERENCE BY THE
26 INDIVIDUAL FOUND NGRI OR THE PREFERRED COUNSEL, THE COURT SHALL
27 REPLACE THE INITIALLY APPOINTED COUNSEL WITH THE PREFERRED COUNSEL.

1 (5) IF THE INDIVIDUAL FOUND NGRI IS INDIGENT, THE COURT SHALL
2 COMPENSATE APPOINTED LEGAL COUNSEL FROM COURT FUNDS IN AN AMOUNT
3 THAT IS REASONABLE AND BASED ON TIME AND EXPENSES.

4 (6) THE SUPREME COURT MAY, BY COURT RULE, ESTABLISH THE
5 COMPENSATION TO BE PAID FOR LEGAL COUNSEL OF INDIGENTS AND MAY
6 REQUIRE THAT LEGAL COUNSEL BE APPOINTED FROM A SYSTEM OR
7 ORGANIZATION ESTABLISHED FOR THE PURPOSE OF PROVIDING
8 REPRESENTATION IN PROCEEDINGS GOVERNED BY THIS CHAPTER.

9 (7) LEGAL COUNSEL SHALL CONSULT IN PERSON WITH THE INDIVIDUAL
10 FOUND NGRI AT LEAST 24 HOURS BEFORE THE TIME SET FOR A COURT
11 HEARING.

12 (8) LEGAL COUNSEL FOR AN INDIVIDUAL FOUND NGRI UNDER SECTION
13 1056 WHO IS HOSPITALIZED PENDING A COURT HEARING SHALL CONSULT IN
14 PERSON WITH THE INDIVIDUAL NOT MORE THAN 72 HOURS, EXCLUDING
15 SUNDAYS AND HOLIDAYS, AFTER THE PETITION AND 2 CLINICAL
16 CERTIFICATES REQUIRED UNDER SECTION 1050(2) HAVE BEEN FILED WITH
17 THE COURT.

18 (9) AFTER A CONSULTATION REQUIRED IN SUBSECTION (7) OR (8),
19 THE LEGAL COUNSEL FOR THE INDIVIDUAL FOUND NGRI SHALL PROMPTLY FILE
20 WITH THE COURT A CERTIFICATE STATING THAT HE OR SHE PERSONALLY HAS
21 SEEN AND HAS CONSULTED WITH THE INDIVIDUAL FOUND NGRI AS REQUIRED
22 BY THIS SECTION.

23 SEC. 1059. THE INDIVIDUAL FOUND NGRI WHO IS THE SUBJECT OF AN
24 NGRI PETITION HAS THE RIGHT TO BE PRESENT AT ALL HEARINGS. THIS
25 RIGHT MAY BE WAIVED BY A WAIVER OF ATTENDANCE SIGNED BY THE
26 INDIVIDUAL FOUND NGRI, WITNESSED BY HIS OR HER LEGAL COUNSEL, AND
27 FILED WITH THE COURT, OR IT MAY BE WAIVED IN COURT AT A SCHEDULED

1 HEARING. THE RIGHT OF THE INDIVIDUAL FOUND NGRI TO BE PRESENT AT A
2 HEARING IS CONSIDERED WAIVED BY THE FAILURE OF THE INDIVIDUAL FOUND
3 NGRI TO ATTEND THE HEARING AFTER RECEIVING NOTICE REQUIRED BY
4 SECTION 1057 AND ANY APPLICABLE COURT RULE, PROVIDING THAT
5 INDIVIDUAL FOUND NGRI HAS HAD AN OPPORTUNITY TO CONSULT WITH LEGAL
6 COUNSEL AS REQUIRED UNDER SECTION 1058. THE COURT MAY EXCLUDE THE
7 INDIVIDUAL FOUND NGRI FROM A HEARING IF THE BEHAVIOR OF THE
8 INDIVIDUAL FOUND NGRI AT THE HEARING MAKES IT IMPOSSIBLE TO CONDUCT
9 THE HEARING. THE PRESENCE OF THE INDIVIDUAL FOUND NGRI MAY ALSO BE
10 WAIVED BY THE COURT IF THERE IS TESTIMONY BY A PHYSICIAN OR
11 LICENSED PSYCHOLOGIST WHO HAS RECENTLY OBSERVED HIM OR HER THAT THE
12 ATTENDANCE OF THE INDIVIDUAL FOUND NGRI WOULD POSE A DANGER TO HIM
13 OR HER OR OTHERS. THE COURT SHALL ENTER ON THE RECORD THE REASON
14 FOR EXCLUDING THE INDIVIDUAL FOUND GUILTY FROM THE HEARING.

15 SEC. 1060. (1) A HEARING ON AN NGRI PETITION MAY BE HELD WHERE
16 THE COURT DIRECTS, EITHER WITHIN OR OUTSIDE THE COUNTY IN WHICH THE
17 COURT HAS ITS PRINCIPAL OFFICE, IN A HOSPITAL OR OTHER CONVENIENT
18 PLACE. IF PRACTICABLE, THE COURT SHALL CONVENE THE HEARING ON THE
19 NGRI PETITION IN A HOSPITAL. A HEARING UNDER THIS SECTION MAY BE
20 HELD BY TELEPHONE, VIDEO CONFERENCE, OR OTHER TELECOMMUNICATIONS
21 TECHNOLOGY AVAILABLE TO THE COURT.

22 (2) THE INDIVIDUAL FOUND NGRI WHO IS THE SUBJECT OF AN NGRI
23 PETITION, ANY INTERESTED PERSON, OR THE COURT ON ITS OWN MOTION MAY
24 REQUEST A CHANGE OF VENUE BECAUSE OF RESIDENCE, CONVENIENCE TO
25 PARTIES, WITNESSES, OR THE COURT, OR THE INDIVIDUAL'S MENTAL OR
26 PHYSICAL CONDITION.

27 SEC. 1061. THE PROSECUTING ATTORNEY OR ASSISTANT PROSECUTING

1 ATTORNEY OF THE COUNTY IN WHICH A COURT IS LOCATED SHALL
2 PARTICIPATE IN A HEARING CONVENED BY THE COURT OF HIS OR HER COUNTY
3 UNDER THIS CHAPTER. THE PROSECUTING ATTORNEY OF THE COUNTY MAY
4 PERMIT THE PROSECUTING ATTORNEY OR ASSISTANT PROSECUTING ATTORNEY
5 FROM ANOTHER COUNTY TO PARTICIPATE ON HIS OR HER BEHALF.

6 SEC. 1062. AN INDIVIDUAL FOUND NGRI WHO IS THE SUBJECT OF AN
7 NGRI PETITION MAY DEMAND THAT A JURY HEAR THE QUESTION OF WHETHER
8 HE OR SHE IS AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT. A JURY
9 SHALL CONSIST OF 6 PERSONS TO BE CHOSEN IN THE SAME MANNER AS
10 JURORS IN CIVIL PROCEEDINGS.

11 SEC. 1063. (1) THE PARTIES IN A HEARING UNDER THIS CHAPTER
12 HAVE THE RIGHT TO PRESENT DOCUMENTS AND WITNESSES AND TO CROSS-
13 EXAMINE WITNESSES.

14 (2) THE COURT SHALL RECEIVE ALL RELEVANT, COMPETENT, AND
15 MATERIAL EVIDENCE THAT IS OFFERED. THE RULES OF EVIDENCE IN CIVIL
16 ACTIONS ARE APPLICABLE, EXCEPT TO THE EXTENT THAT SPECIFIC
17 EXCEPTIONS HAVE BEEN PROVIDED FOR IN THIS CHAPTER OR ELSEWHERE BY
18 STATUTE OR COURT RULE.

19 SEC. 1064. LEGAL COUNSEL FOR AN INDIVIDUAL FOUND NGRI WHO IS
20 THE SUBJECT OF AN NGRI PETITION SHALL BE ALLOWED ADEQUATE TIME TO
21 INVESTIGATE THE MATTER AT ISSUE AND TO PREPARE. LEGAL COUNSEL MAY
22 PRESENT EVIDENCE THAT HE OR SHE BELIEVES IS NECESSARY TO A PROPER
23 DISPOSITION OF THE HEARING.

24 SEC. 1065. AN INDIVIDUAL FOUND NGRI WHO IS THE SUBJECT OF AN
25 NGRI PETITION MAY NOT BE FOUND TO BE AN INDIVIDUAL FOUND NGRI
26 REQUIRING TREATMENT UNLESS AT LEAST 1 PHYSICIAN OR LICENSED
27 PSYCHOLOGIST WHO HAS PERSONALLY EXAMINED THE INDIVIDUAL FOUND NGRI

1 TESTIFIES IN PERSON, BY TELEPHONE, BY ACCEPTABLE ELECTRONIC MEANS,
2 OR BY WRITTEN DEPOSITION AT THE HEARING. A WRITTEN DEPOSITION MAY
3 BE INTRODUCED AS EVIDENCE AT THE HEARING ONLY IF LEGAL COUNSEL FOR
4 THE INDIVIDUAL FOUND NGRI WAS GIVEN THE OPPORTUNITY TO BE PRESENT
5 WHEN THE DEPOSITION WAS TAKEN AND HAD THE OPPORTUNITY TO CROSS-
6 EXAMINE THE DEPONENT. THE INDIVIDUAL FOUND NGRI MAY WAIVE THIS
7 TESTIMONY OR DEPOSITION. AN INDIVIDUAL FOUND NGRI WHO IS THE
8 SUBJECT OF AN NGRI PETITION MAY BE FOUND TO BE AN INDIVIDUAL FOUND
9 NGRI REQUIRING TREATMENT EVEN IF THE PETITIONER DOES NOT TESTIFY,
10 IF THERE IS COMPETENT EVIDENCE FROM WHICH THE RELEVANT CRITERIA IN
11 SECTION 1049(2) CAN BE ESTABLISHED.

12 SEC. 1066. (1) A REQUEST FOR A CONTINUANCE FOR A REASONABLE
13 TIME SHALL BE GRANTED FOR GOOD CAUSE.

14 (2) UNLESS THE SUBJECT OF A PETITION OR HIS OR HER ATTORNEY
15 OBJECTS, FAILURE TO TIMELY NOTIFY A SPOUSE, GUARDIAN, RELATIVE, OR
16 OTHER PERSON DETERMINED BY THE COURT TO BE ENTITLED TO NOTICE IS
17 NOT A CAUSE TO ADJOURN OR CONTINUE A HEARING.

18 SEC. 1067. (1) IF REQUESTED BEFORE THE FIRST SCHEDULED HEARING
19 OR AT THE FIRST SCHEDULED HEARING BEFORE THE FIRST WITNESS HAS BEEN
20 SWORN ON AN APPLICATION OR PETITION, AN INDIVIDUAL FOUND NGRI WHO
21 IS THE SUBJECT OF AN NGRI PETITION IN A HEARING UNDER THIS CHAPTER
22 HAS THE RIGHT AT HIS OR HER OWN EXPENSE, OR IF INDIGENT, AT PUBLIC
23 EXPENSE, TO SECURE AN INDEPENDENT CLINICAL EVALUATION BY A
24 PSYCHIATRIST OR LICENSED PSYCHOLOGIST OF HIS OR HER CHOICE
25 REGARDING WHETHER HE OR SHE IS AN INDIVIDUAL FOUND NGRI REQUIRING
26 TREATMENT.

27 (2) COMPENSATION FOR AN EVALUATION PERFORMED BY A PSYCHIATRIST

1 OR A LICENSED PSYCHOLOGIST SHALL BE IN AN AMOUNT THAT IS REASONABLE
2 AND BASED ON TIME AND EXPENSES.

3 (3) THE INDEPENDENT CLINICAL EVALUATION DESCRIBED IN THIS
4 SECTION IS FOR THE SOLE USE OF THE INDIVIDUAL FOUND NGRI. THE
5 INDEPENDENT CLINICAL EVALUATION OR THE TESTIMONY OF THE INDIVIDUAL
6 PERFORMING THE EVALUATION SHALL NOT BE INTRODUCED INTO EVIDENCE
7 WITHOUT THE CONSENT OF THE INDIVIDUAL FOUND NGRI.

8 SEC. 1068. COPIES OF COURT ORDERS ISSUED UNDER THIS CHAPTER
9 SHALL BE GIVEN TO THE INDIVIDUAL FOUND NGRI WHO IS THE SUBJECT OF
10 THE ORDER, THE GUARDIAN OF THE INDIVIDUAL FOUND NGRI, IF A GUARDIAN
11 HAS BEEN APPOINTED, THE LEGAL COUNSEL OF THE INDIVIDUAL FOUND NGRI,
12 THE EXECUTIVE DIRECTOR OF THE COMMUNITY MENTAL HEALTH SERVICES
13 PROGRAM, AND THE DIRECTOR OF ANY HOSPITAL IN WHICH THE INDIVIDUAL
14 FOUND NGRI IS OR WILL BE A PATIENT.

15 SEC. 1069. (1) UPON ENTRY OF A COURT ORDER FOR INVOLUNTARY
16 NGRI TREATMENT OF AN INDIVIDUAL FOUND NGRI, THE COURT SHALL
17 IMMEDIATELY ORDER THE DEPARTMENT OF STATE POLICE TO ENTER THE COURT
18 ORDER INTO THE LAW ENFORCEMENT INFORMATION NETWORK ADMINISTERED
19 UNDER THE L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA 163, MCL
20 28.211 TO 28.216. EXCEPT AS PROVIDED IN SUBSECTION (2), THE
21 DEPARTMENT OF STATE POLICE SHALL NOT REMOVE THE COURT ORDER FROM
22 LEIN AFTER IT HAS BEEN ENTERED.

23 (2) THE DEPARTMENT OF STATE POLICE SHALL IMMEDIATELY ENTER A
24 COURT'S ORDER FOR INVOLUNTARY NGRI TREATMENT INTO THE LAW
25 ENFORCEMENT INFORMATION NETWORK ADMINISTERED UNDER THE L.E.I.N.
26 POLICY COUNCIL ACT OF 1974, 1974 PA 163, MCL 28.211 TO 28.216, OR
27 SHALL IMMEDIATELY REMOVE AN ORDER FOR INVOLUNTARY NGRI TREATMENT

1 FROM LEIN AS ORDERED BY THE COURT UNDER THIS SECTION.

2 SEC. 1070. A JUDGE OR JURY SHALL NOT FIND THAT AN INDIVIDUAL
3 FOUND NGRI IS AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT UNLESS
4 THAT FACT HAS BEEN ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE.

5 SEC. 1071. (1) IF THE COURT FINDS THAT AN INDIVIDUAL FOUND
6 NGRI IS NOT AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT, THE COURT
7 SHALL ENTER AN ORDER STATING THAT FINDING. IF THE INDIVIDUAL FOUND
8 NGRI HAS BEEN HOSPITALIZED BEFORE THE HEARING, THE COURT SHALL
9 ORDER THAT THE INDIVIDUAL FOUND NGRI BE DISCHARGED IMMEDIATELY.

10 (2) FOLLOWING A HEARING UNDER SECTION 1056(A), IF THE COURT
11 FINDS THAT AN INDIVIDUAL FOUND NGRI IS AN INDIVIDUAL FOUND NGRI
12 REQUIRING TREATMENT, THE COURT SHALL ISSUE AN ORDER FOR INVOLUNTARY
13 NGRI TREATMENT TO LAST FOR THE GREATER OF A PERIOD OF 1 YEAR OR FOR
14 A PERIOD EQUAL TO THE MAXIMUM SENTENCE THAT THE INDIVIDUAL FOUND
15 NGRI COULD HAVE RECEIVED HAD HE OR SHE BEEN FOUND GUILTY. IF THE
16 INDIVIDUAL FOUND NGRI WAS PREVIOUSLY FOUND NGRI OF A DIFFERENT
17 CHARGE, THE COURT MAY INCREASE THE PERIOD OF INVOLUNTARY NGRI
18 TREATMENT BY ANY NUMBER OF YEARS UP TO AND INCLUDING LIFE. THE
19 CENTER FOR FORENSIC PSYCHIATRY SHALL DETERMINE THE APPROPRIATE
20 TREATMENT SETTING FOR THE INDIVIDUAL FOUND NGRI AND SHALL
21 IMMEDIATELY ARRANGE FOR THE INDIVIDUAL FOUND NGRI TO BE TREATED AT
22 THE CENTER FOR FORENSIC PSYCHIATRY, AT ANOTHER HOSPITAL OR CENTER,
23 OR IN A COMMUNITY PLACEMENT.

24 (3) FOLLOWING A HEARING UNDER SECTION 1056(B) OR (C), IF THE
25 COURT FINDS THAT AN INDIVIDUAL FOUND NGRI CONTINUES TO BE AN
26 INDIVIDUAL FOUND NGRI REQUIRING TREATMENT, THE COURT SHALL CONTINUE
27 THE EXISTING ORDER FOR INVOLUNTARY NGRI TREATMENT.

1 SEC. 1072. IF, IN THE OPINION OF THE CENTER FOR FORENSIC
2 PSYCHIATRY, AN INDIVIDUAL FOUND NGRI NO LONGER MEETS THE CRITERIA
3 OF AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT, THE DIRECTOR OF
4 THE CENTER FOR FORENSIC PSYCHIATRY SHALL NOTIFY THE COURT THAT LAST
5 ISSUED OR CONTINUED THE ORDER FOR INVOLUNTARY NGRI TREATMENT. THE
6 COURT SHALL CONVENE A HEARING UNDER SECTION 1056(C) TO DETERMINE
7 WHETHER THE INDIVIDUAL FOUND NGRI REMAINS AN INDIVIDUAL FOUND NGRI
8 REQUIRING TREATMENT.

9 SEC. 1073. THE CLINICAL STATUS OF AN INDIVIDUAL FOUND NGRI ON
10 AN ORDER FOR INVOLUNTARY TREATMENT SHALL BE REVIEWED ANNUALLY BY
11 THE MEDICAL SUPERVISOR OF TREATMENT. THE RESULTS OF THE REVIEW
12 SHALL BE FORWARDED TO THE CENTER FOR FORENSIC PSYCHIATRY.

13 SEC. 1074. THE RESULT OF EACH PERIODIC REVIEW SHALL BE MADE
14 PART OF THE RECORD OF THE INDIVIDUAL FOUND NGRI AND SHALL BE FILED
15 WITHIN 5 BUSINESS DAYS OF THE REVIEW IN THE FORM OF A WRITTEN
16 REPORT WITH THE COURT THAT LAST ISSUED OR CONTINUED THE ORDER FOR
17 INVOLUNTARY NGRI TREATMENT. NOTICE OF THE RESULT OF THE REVIEW AND
18 INFORMATION ON THE RIGHT OF THE INDIVIDUAL FOUND NGRI TO PETITION
19 FOR DISCHARGE SHALL BE GIVEN TO THE INDIVIDUAL FOUND NGRI, THE
20 LEGAL COUNSEL FOR THE INDIVIDUAL FOUND NGRI, THE GUARDIAN OF THE
21 INDIVIDUAL FOUND NGRI, IF ANY, AND THE NEAREST RELATIVE OF THE
22 INDIVIDUAL FOUND NGRI OR A PERSON DESIGNATED BY THE INDIVIDUAL
23 FOUND NGRI.

24 SEC. 1075. IF THE CONCLUSION DRAWN FROM THE RESULT OF A REVIEW
25 REQUIRED UNDER SECTION 1073 IS THAT THE INDIVIDUAL FOUND NGRI
26 REMAINS AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT AND HE OR SHE
27 OBJECTS TO THE CONCLUSION, HE OR SHE HAS A RIGHT TO A HEARING AND

1 MAY PETITION THE COURT FOR DISCHARGE FROM HIS OR HER ORDER FOR
2 INVOLUNTARY NGRI TREATMENT. THE PETITION SHALL BE PRESENTED TO THE
3 COURT WITHIN 7 BUSINESS DAYS AFTER THE REPORT IS RECEIVED.

4 SEC. 1076. NOTHING IN THIS CHAPTER PREVENTS THE FILING OF OR
5 DEPRIVES AN INDIVIDUAL OF THE BENEFITS OF A WRIT OF HABEAS CORPUS.

6 SEC. 1077. (1) A DETERMINATION THAT AN INDIVIDUAL FOUND NGRI
7 IS AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT AND A SUBSEQUENT
8 PLACEMENT IN A HOSPITAL, CENTER, OR OTHER TREATMENT SETTING DOES
9 NOT GIVE RISE TO A PRESUMPTION OF, CONSTITUTE A FINDING OF, OR
10 OPERATE AS AN ADJUDICATION OF LEGAL INCOMPETENCE.

11 (2) IN THE ABSENCE OF AN ACCOMPANYING APPOINTMENT OF A
12 GUARDIAN, AN ORDER OF COMMITMENT UNDER A PREVIOUS STATUTE OF THIS
13 STATE IS NOT AN ADJUDICATION OF LEGAL INCOMPETENCE.

14 SEC. 1078. AN INDIVIDUAL FOUND NGRI RECEIVING INVOLUNTARY NGRI
15 TREATMENT UNDER THIS CHAPTER SHALL RECEIVE A COPY OF SECTION 1077
16 UPON THE COMMENCEMENT OF INVOLUNTARY NGRI TREATMENT. AN INDIVIDUAL
17 FOUND NGRI DISCHARGED FROM A HOSPITAL OR CENTER SHALL RECEIVE A
18 COPY OF SECTION 1077 UPON REQUEST.

19 SEC. 1079. THE DEPARTMENT SHALL PRESCRIBE THE FORMS TO BE USED
20 IN COURT PROCEEDINGS UNDER THIS CHAPTER BY ALL PROVIDERS OF MENTAL
21 HEALTH SERVICES. THE FORMS ARE SUBJECT TO THE APPROVAL OF THE
22 SUPREME COURT.

23 SEC. 1080. (1) AN INDIVIDUAL FOUND NGRI WHO WAS COMMITTED TO
24 THE CENTER FOR FORENSIC PSYCHIATRY FOR 60 DAYS FOR EXAMINATION AND
25 EVALUATION UNDER A PREVIOUS STATUTE OF THIS STATE SHALL BE ADMITTED
26 TO THE CENTER FOR FORENSIC PSYCHIATRY FOR THAT 60-DAY EVALUATION.
27 THE CENTER FOR FORENSIC PSYCHIATRY SHALL REACH AN OPINION ON

1 WHETHER THE INDIVIDUAL FOUND NGRI MEETS THE CRITERIA OF A PERSON
2 REQUIRING TREATMENT OR FOR JUDICIAL ADMISSION SET FORTH IN SECTION
3 401 OR 515.

4 (2) WITHIN THE 60-DAY PERIOD DESCRIBED IN SUBSECTION (1), THE
5 CENTER FOR FORENSIC PSYCHIATRY SHALL FILE A REPORT WITH THE COURT,
6 PROSECUTING ATTORNEY, AND DEFENSE COUNSEL. THE REPORT SHALL CONTAIN
7 A SUMMARY OF THE CRIME THAT THE INDIVIDUAL FOUND NGRI COMMITTED BUT
8 FOR WHICH HE OR SHE WAS FOUND NOT GUILTY BY REASON OF INSANITY, AN
9 OPINION AS TO WHETHER THE INDIVIDUAL FOUND NGRI MEETS THE CRITERIA
10 OF A PERSON REQUIRING TREATMENT OR FOR JUDICIAL ADMISSION AS
11 DEFINED BY SECTION 401 OR 515, AND THE FACTS UPON WHICH THE OPINION
12 IS BASED. IF THE OPINION STATED IN THE REPORT IS THAT THE
13 INDIVIDUAL FOUND NGRI IS A PERSON REQUIRING TREATMENT, THE REPORT
14 SHALL BE ACCOMPANIED BY CERTIFICATES FROM 2 PSYCHIATRISTS OR FROM 1
15 PSYCHIATRIST AND 1 LICENSED PSYCHOLOGIST THAT CONFORM TO THE
16 REQUIREMENTS OF SECTION 400(J).

17 (3) AFTER RECEIPT OF THE REPORT, THE COURT MAY DIRECT THE
18 PROSECUTING ATTORNEY TO FILE A PETITION UNDER SECTION 434 OR 516
19 FOR AN ORDER OF HOSPITALIZATION OR AN ORDER OF JUDICIAL ADMISSION
20 TO A FACILITY. A PETITION FILED ACCORDING TO THIS SUBSECTION SHALL
21 BE FILED WITH THE PROBATE COURT OF THE COUNTY OF RESIDENCE OF THE
22 INDIVIDUAL FOUND NGRI OR, IF THE INDIVIDUAL FOUND NGRI HAS NO
23 COUNTY OF RESIDENCE IN THIS STATE, OF THE COUNTY IN WHICH THE
24 CRIMINAL TRIAL WAS HELD. THE CERTIFICATES THAT ACCOMPANIED THE
25 REPORT OF THE CENTER FOR FORENSIC PSYCHIATRY MAY BE FILED WITH THE
26 PETITION AND ARE SUFFICIENT TO CAUSE A HEARING TO BE HELD UNDER
27 SECTION 451 EVEN IF THE CERTIFICATES WERE NOT EXECUTED WITHIN 72

1 HOURS OF THE FILING OF THE PETITION. THE REPORT FROM THE COURT
2 CONTAINING THE FACTS CONCERNING THE CRIME FOR WHICH THE INDIVIDUAL
3 WAS ACQUITTED BY REASON OF INSANITY IS ADMISSIBLE IN THE HEARINGS.

4 (4) IF THE REPORT STATES THE OPINION THAT THE INDIVIDUAL FOUND
5 NGRI MEETS THE CRITERIA OF A PERSON REQUIRING TREATMENT OR FOR
6 JUDICIAL ADMISSION, AND IF A PETITION IS TO BE FILED UNDER
7 SUBSECTION (3), THE CENTER FOR FORENSIC PSYCHIATRY MAY RETAIN THE
8 INDIVIDUAL FOUND NGRI PENDING A HEARING ON THE PETITION. IF THE
9 PETITION IS NOT TO BE FILED, THE PROSECUTOR SHALL NOTIFY THE CENTER
10 FOR FORENSIC PSYCHIATRY IN WRITING. THE CENTER FOR FORENSIC
11 PSYCHIATRY, UPON RECEIPT OF THE NOTIFICATION, SHALL CAUSE THE
12 INDIVIDUAL TO BE DISCHARGED.

13 (5) THE PROVISIONS OF SECTIONS 476 TO 479 APPLY TO AN
14 INDIVIDUAL FOUND TO HAVE COMMITTED A CRIME BY A COURT OR JURY, BUT
15 WHO IS ACQUITTED BY REASON OF INSANITY, EXCEPT THAT AN INDIVIDUAL
16 FOUND NGRI SHALL NOT BE DISCHARGED OR PLACED ON LEAVE WITHOUT FIRST
17 BEING EVALUATED AND RECOMMENDED FOR DISCHARGE OR LEAVE BY THE
18 CENTER FOR FORENSIC PSYCHIATRY. AN AUTHORIZED LEAVE OR ABSENCE FROM
19 THE HOSPITAL MAY BE EXTENDED FOR A PERIOD OF 5 YEARS.

20 SEC. 1081. THE DISPOSITION OF AN INDIVIDUAL FOUND NGRI ON AN
21 ORDER FOR INVOLUNTARY MENTAL HEALTH TREATMENT OR JUDICIAL ADMISSION
22 UNDER CHAPTER 4 OR 5 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY
23 ACT THAT ADDED THIS SECTION OR AN INDIVIDUAL FOUND NGRI WHO IS
24 PLACED ON AN ORDER FOR INVOLUNTARY MENTAL HEALTH TREATMENT OR
25 JUDICIAL ADMISSION UNDER SECTION 1080(3) SHALL CONTINUE TO BE
26 GOVERNED BY THE PROVISIONS OF CHAPTER 4 OR 5 AND THE PROVISIONS OF
27 SECTION 1080(5). WITHIN 4 YEARS AFTER THE EFFECTIVE DATE OF THE

1 AMENDATORY ACT THAT ADDED THIS SECTION, THE CENTER FOR FORENSIC
2 PSYCHIATRY SHALL REQUEST FROM THE PROSECUTING ATTORNEY NGRI
3 PETITIONS FOR INDIVIDUALS DESCRIBED IN SECTION 1050, AND THE
4 PROSECUTING ATTORNEY SHALL FORWARD THE NGRI PETITIONS TO THE CENTER
5 FOR FORENSIC PSYCHIATRY. THE CENTER FOR FORENSIC PSYCHIATRY SHALL
6 REVIEW THE CLINICAL STATUS OF THE INDIVIDUALS ON WHOM NGRI
7 PETITIONS WERE PROVIDED UNDER THIS SECTION AND SHALL DETERMINE
8 THROUGH THIS REVIEW WHETHER THE INDIVIDUALS MEET CRITERIA FOR AN
9 INDIVIDUAL FOUND NGRI REQUIRING TREATMENT.

10 SEC. 1082. (1) THE RESULT OF A REVIEW PERFORMED UNDER SECTION
11 1081 SHALL BE FILED WITHIN 30 BUSINESS DAYS OF THE DATE OF THE
12 REVIEW IN THE FORM OF A WRITTEN REPORT WITH THE COURT THAT LAST
13 ISSUED AN ORDER FOR INVOLUNTARY MENTAL HEALTH TREATMENT OR JUDICIAL
14 ADMISSION. NOTICE OF THE RESULT OF THE REVIEW SHALL BE GIVEN TO THE
15 PROSECUTING ATTORNEY, THE INDIVIDUAL FOUND NGRI, THE LEGAL COUNSEL
16 FOR THE INDIVIDUAL FOUND NGRI, THE GUARDIAN FOR THE INDIVIDUAL
17 FOUND NGRI, AND THE NEAREST RELATIVE OF THE INDIVIDUAL FOUND NGRI
18 OR A PERSON DESIGNATED BY THE INDIVIDUAL FOUND NGRI.

19 (2) IF THE CONCLUSION FROM THE REVIEW REQUIRED UNDER
20 SUBSECTION (1) IS THAT THE INDIVIDUAL FOUND NGRI IS AN INDIVIDUAL
21 FOUND NGRI REQUIRING TREATMENT, THE PROSECUTING ATTORNEY SHALL FILE
22 AN NGRI PETITION WITH THE COURT AND THE COURT SHALL CONVENE A
23 HEARING WITHIN 7 BUSINESS DAYS TO DETERMINE WHETHER THE INDIVIDUAL
24 FOUND NGRI IS AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT.

25 (3) FOLLOWING A HEARING HELD AS A RESULT OF A PETITION FILED
26 UNDER SECTION 1080(3), IF THE COURT FINDS THAT THE INDIVIDUAL FOUND
27 NGRI IS AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT, THE COURT

1 SHALL ISSUE AN ORDER FOR INVOLUNTARY NGRI TREATMENT TO LAST FOR THE
2 GREATER OF A PERIOD OF 1 YEAR OR FOR A PERIOD EQUAL TO THE MAXIMUM
3 SENTENCE THAT THE INDIVIDUAL FOUND NGRI COULD HAVE RECEIVED HAD HE
4 OR SHE BEEN FOUND GUILTY. THE ORDER FOR INVOLUNTARY NGRI TREATMENT
5 SHALL SUPERSEDE THE EXISTING ORDER FOR INVOLUNTARY MENTAL HEALTH
6 TREATMENT OR JUDICIAL ADMISSION.

7 (4) FOLLOWING A HEARING HELD AS A RESULT OF A PETITION FILED
8 UNDER SECTION 1080(3), IF THE COURT FINDS THAT THE INDIVIDUAL FOUND
9 NGRI IS NOT AN INDIVIDUAL FOUND NGRI REQUIRING TREATMENT, THE COURT
10 SHALL DO 1 OF THE FOLLOWING:

11 (A) CONTINUE THE EXISTING ORDER FOR INVOLUNTARY MENTAL HEALTH
12 TREATMENT OR JUDICIAL ADMISSION.

13 (B) ISSUE A NEW ORDER FOR INVOLUNTARY MENTAL HEALTH TREATMENT
14 OR JUDICIAL ADMISSION.

15 (C) ORDER THE INDIVIDUAL FOUND NGRI TO BE DISCHARGED FROM
16 INVOLUNTARY MENTAL HEALTH TREATMENT OR JUDICIAL ADMISSION.

17 (D) IF THE COURT CONTINUES THE EXISTING ORDER FOR INVOLUNTARY
18 MENTAL HEALTH TREATMENT OR JUDICIAL ADMISSION UNDER SUBSECTION
19 (4) (A) OR ISSUES A NEW ORDER FOR INVOLUNTARY MENTAL HEALTH
20 TREATMENT OR JUDICIAL ADMISSION UNDER SUBSECTION (4) (B), THE
21 PROVISIONS DESCRIBED IN SECTION 1080(5) NO LONGER APPLY.

22 (5) A COPY OF THE COURT ORDER SHALL BE GIVEN TO THE INDIVIDUAL
23 FOUND NGRI WHO IS THE SUBJECT OF THE ORDER, THE GUARDIAN OF THE
24 INDIVIDUAL FOUND NGRI, IF A GUARDIAN HAS BEEN APPOINTED, LEGAL
25 COUNSEL FOR THE INDIVIDUAL FOUND NGRI, THE EXECUTIVE DIRECTOR OF
26 THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM, AND THE DIRECTOR OF
27 ANY HOSPITAL IN WHICH THE INDIVIDUAL FOUND NGRI IS A PATIENT.

1 Enacting section 1. Section 1005f of the mental health code,
2 1974 PA 258, MCL 330.2005f, is repealed.