

# HOUSE BILL No. 5820

April 17, 2018, Introduced by Reps. Kesto and Vaupel and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending a subheading of chapter 5 and sections 500, 501, 502, 503, 504, 505, 508, 509, 510, 511, 512, 515, 516, 517, 518, 519, 520, 521, 525, 526, 527, 528, 531, 532, 536, 537, 540, and 541 (MCL 330.1500, 330.1501, 330.1502, 330.1503, 330.1504, 330.1505, 330.1508, 330.1509, 330.1510, 330.1511, 330.1512, 330.1515, 330.1516, 330.1517, 330.1518, 330.1519, 330.1520, 330.1521, 330.1525, 330.1526, 330.1527, 330.1528, 330.1531, 330.1532, 330.1536, 330.1537, 330.1540, and 330.1541), sections 500, 502, 503, 505, 508, 509, 510, 511, 512, 516, 517, 518, 519, 520, 521, 527, 528, 531, 532, 536, 537, 540, and 541 as amended by 1995 PA 290, sections 504 and 515 as amended by 2014 PA 72, and section 525 as amended by 1998 PA 382.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 500. As used in this chapter, unless the context requires  
2 otherwise:

3           (a) "Administrative admission" means the admission of an  
4 individual with a developmental disability to a ~~center pursuant to~~  
5 **FACILITY UNDER** section 509.

6           **(B) "ALTERNATIVE PROGRAM OF CARE AND TREATMENT" MEANS AN**  
7 **OUTPATIENT PROGRAM OF CARE AND TREATMENT SUITABLE TO THE**  
8 **INDIVIDUAL'S NEEDS UNDER THE SUPERVISION OF A PSYCHIATRIST THAT IS**  
9 **DEVELOPED IN ACCORDANCE WITH PERSON-CENTERED PLANNING UNDER SECTION**  
10 **712.**

11          **(C) ~~(b)~~**"Court" means the probate court or the court with  
12 responsibility with regard to mental health matters for the county  
13 in which an individual with a developmental disability resides or  
14 was found.

15          **(D) ~~(c)~~**"Criteria for ~~judicial admission~~**-TREATMENT"** means the  
16 criteria specified in section 515 for admission of an adult with a  
17 ~~developmental~~**AN INTELLECTUAL** disability to a ~~center,~~**FACILITY,**  
18 private facility, or alternative program of care and treatment  
19 under section 518.

20          **(E) ~~(d)~~**"Private facility" means an adult foster care facility  
21 operated under contract with a community mental health services  
22 program or on a private pay basis that agrees to do both of the  
23 following:

24           (i) Accept the ~~judicial~~ admission of an individual with  
25 developmental disability.

26           (ii) Fulfill the duties of a ~~center~~**FACILITY** as described in

1 this chapter.

2 (F) "TREATMENT" MEANS ADMISSION INTO AN APPROPRIATE TREATMENT  
3 FACILITY OR AN OUTPATIENT PROGRAM OF CARE AND TREATMENT SUITABLE TO  
4 THE INDIVIDUAL'S NEEDS UNDER THE SUPERVISION OF A PSYCHIATRIST THAT  
5 IS DEVELOPED IN ACCORDANCE WITH PERSON-CENTERED PLANNING UNDER  
6 SECTION 712.

7 Sec. 501. The department shall prescribe the forms to be used  
8 under this chapter, and all facilities shall use department forms.  
9 ~~Forms that may be used in court proceedings under this chapter~~  
10 ~~shall be subject to the approval of the supreme court.~~ **AT THE**  
11 **DIRECTION OF THE SUPREME COURT, THE STATE COURT ADMINISTRATIVE**  
12 **OFFICE SHALL PRESCRIBE THE FORMS USED FOR COURT PROCEEDINGS UNDER**  
13 **THIS CHAPTER.**

14 Sec. 502. An individual shall be admitted to a ~~center~~-**FACILITY**  
15 only pursuant ~~to~~-**ACCORDING** to the provisions of this act.

16 Sec. 503. (1) An individual under 18 years of age shall not be  
17 judicially admitted to a ~~center~~, facility, private facility, or  
18 other residential program.

19 (2) Administrative admission under section 509 is the  
20 preferred form of admission for individuals 18 years of age or  
21 older.

22 Sec. 504. An individual with a developmental disability other  
23 than an intellectual disability is eligible for temporary and  
24 administrative admission under sections 508 and 509. ~~, but is not~~  
25 ~~eligible for judicial admission.~~

26 Sec. 505. (1) Six months ~~prior to~~-**BEFORE** the eighteenth  
27 birthday of each resident in a ~~center~~, **FACILITY**, the resident shall

1 be evaluated by the center for the purpose of determining whether  
2 he or she is competent to execute an application for administrative  
3 admission.

4 (2) If it is determined by the ~~center~~**FACILITY** that the  
5 resident is not competent to execute an application for  
6 administrative admission, or otherwise requires the protective  
7 services of a guardian, a parent, or if none, another interested  
8 person or entity, the parent, guardian, or interested party shall  
9 be notified and requested to file a petition for the appointment of  
10 a plenary or partial guardian. If a petition is not filed, the  
11 ~~center~~**FACILITY** may, but need not, file a petition.

12 Sec. 508. (1) An individual with a developmental disability  
13 referred by a community mental health services program may be  
14 temporarily admitted to a ~~center~~**FACILITY** for appropriate clinical  
15 services if an application for temporary admission is executed by a  
16 person legally empowered to make the application and if it is  
17 determined that the individual is suitable for admission. The  
18 services to be provided to the individual shall be determined by  
19 mutual agreement between the community mental health services  
20 program, the ~~center~~**FACILITY**, and the person making the  
21 application, except that no individual may be temporarily admitted  
22 for more than 30 days.

23 (2) An application for temporary admission shall contain the  
24 substance of subsection (1).

25 Sec. 509. (1) An individual with a developmental disability  
26 under 18 years of age shall be referred by a community mental  
27 health services program before being considered for administrative

1 admission to a ~~center~~-**FACILITY**. An application for the  
2 individual's admission shall be executed by a parent, guardian, or,  
3 in the absence of a parent or guardian, a person in loco parentis  
4 if it is determined that the minor is suitable for admission.

5 (2) An individual with a developmental disability who is 18  
6 years of age or older and is referred by a community mental health  
7 services program may be admitted to a ~~center~~-**FACILITY** on an  
8 administrative admission basis if an application for the  
9 individual's admission is executed by the individual if competent  
10 to do so, or by a guardian if the individual is not competent to do  
11 so, and if it is determined that the individual is suitable for  
12 admission.

13 (3) An application for administrative admission shall contain  
14 in large type and simple language the substance of sections 510,  
15 511, and 512. At the time of admission, the rights set forth in the  
16 application shall be explained to the resident and to the person  
17 who executed the application for admission. In addition, a copy of  
18 the application shall be given to the resident, the person who  
19 executed the application, and to 1 other person designated by the  
20 resident.

21 Sec. 510. (1) ~~Prior to~~-**BEFORE** the administrative admission of  
22 any individual, the individual may be received by the ~~center~~  
23 **FACILITY** designated and approved by the community mental health  
24 services program for up to 10 days in order for a preadmission  
25 examination to be conducted. No individual may be administratively  
26 admitted unless the individual was referred by the community mental  
27 health services program and was given a preadmission examination by

1 the ~~center~~**FACILITY** for the purpose of determining the individual's  
2 suitability for admission.

3 (2) The preadmission examination shall include mental,  
4 physical, social, and educational evaluations, and shall be  
5 conducted under the supervision of a registered nurse or other  
6 mental health professional possessing at least a master's degree.  
7 The results of the examination shall be contained in a report to be  
8 made part of the individual's record, and the report shall also  
9 contain a statement indicating the most appropriate living  
10 arrangement that is necessary to meet the individual's treatment  
11 needs.

12 (3) At least once annually each administratively admitted  
13 resident shall be reexamined for the purpose of determining whether  
14 he or she continues to be suitable for admission.

15 Sec. 511. (1) Objection may be made to the admission of any  
16 administratively admitted resident. ~~Objections~~**AN OBJECTION** may be  
17 filed with the court by a person found suitable by the court or by  
18 the resident himself or herself if he or she is at least 13 years  
19 of age. An objection may be made not more than 30 days after  
20 admission of the resident, and may be made subsequently at any 6-  
21 month interval following the date of the original objection or, if  
22 an original objection was not made, at any 6-month interval  
23 following the date of admission.

24 (2) An objection shall be made in writing, except that if made  
25 by the resident, an objection to admission may be communicated to  
26 the court or judge of probate and the executive director of the  
27 community mental health services program by any means, including

1 but not limited to oral communication or informal letter. If the  
2 resident informs the ~~center~~**FACILITY** that he or she desires to  
3 object to the admission, the ~~center~~**FACILITY** shall assist the  
4 resident in submitting his or her objection to the court.

5 (3) Upon receiving notice of an objection, the court shall  
6 schedule a hearing to be held within 7 days, excluding Sundays and  
7 holidays. The court shall notify the person who objected, the  
8 resident, the person who executed the application, the executive  
9 director, and the director of the ~~center~~**FACILITY** of the time and  
10 place of the hearing.

11 (4) The hearing ~~shall be~~**IS** governed by ~~those provisions of~~  
12 sections 517 to 522, including the appointment of counsel and an  
13 independent medical or psychological evaluation, that the court  
14 ~~deems~~**CONSIDERS** necessary to ensure that all relevant information  
15 is brought to ~~its~~**THE COURT'S** attention, and by ~~the provisions of~~  
16 this section.

17 (5) The court shall sustain the objection and order the  
18 discharge of the resident if the resident is not in need of the  
19 care and treatment that is available at the ~~center~~**FACILITY** or if  
20 an alternative to the care and treatment provided in a ~~center~~  
21 **FACILITY** is available and adequate to meet the resident's needs.

22 (6) Unless the court sustains the objection and orders the  
23 discharge of the resident, the ~~center~~**FACILITY** may continue to  
24 provide residential and other services to the resident.

25 (7) Unwillingness or inability of the parent, guardian, or  
26 person in loco parentis to provide for the resident's management,  
27 care, or residence ~~shall~~**IS** not ~~be~~ grounds for refusing to sustain

1 the objection and order discharge, but in that event the objecting  
 2 person may, or a person authorized by the court shall, promptly  
 3 file a petition under section 637 or, if the resident is a  
 4 juvenile, under section 2 of chapter XIIIA of Act No. 288 of the  
 5 Public Acts of 1939, being section 712A.2 of the Michigan Compiled  
 6 Laws, **THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.2**, to ensure  
 7 that suitable management, care, or residence is provided.

8       Sec. 512. (1) A ~~center~~**FACILITY** may detain an administratively  
 9 admitted resident for a period not exceeding 3 days from the time  
 10 that the person who executed the application for the resident's  
 11 admission gives written notice to the ~~center~~**FACILITY** of his or her  
 12 intention that the resident leave the ~~center~~**FACILITY**.

13       (2) When a ~~center~~**FACILITY** is notified of a resident's  
 14 intention to leave the ~~center~~**FACILITY**, it shall promptly supply  
 15 an appropriate form to the person who made the notification and  
 16 notify the appropriate community mental health services program.

17                   ~~JUDICIAL ADMISSION~~**INTELLECTUAL DISABILITY TREATMENT**

18       Sec. 515. A court may order ~~the admission~~**APPROPRIATE**  
 19 **OUTPATIENT TREATMENT OR ADMISSION INTO AN APPROPRIATE TREATMENT**  
 20 **FACILITY** of an individual 18 years of age or older ~~who meets both~~  
 21 ~~of the following requirements:~~**IF THE INDIVIDUAL HAS BEEN DIAGNOSED**  
 22 **AS AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY AND EITHER OF THE**  
 23 **FOLLOWING APPLIES:**

24       ~~— (a) Has been diagnosed as an individual with an intellectual~~  
 25 ~~disability.~~

26       **(A)** ~~(b) Can~~**THE INDIVIDUAL CAN** be reasonably expected within  
 27 the near future to intentionally or unintentionally seriously



1 physically injure himself, ~~or~~ herself, or another person, and has  
2 overtly acted in a manner substantially supportive of that  
3 expectation.

4 **(B) THE INDIVIDUAL HAS BEEN ARRESTED AND CHARGED WITH AN**  
5 **OFFENSE THAT WAS A RESULT OF THE INTELLECTUAL DISABILITY.**

6 Sec. 516. (1) Any person found suitable by the court may file  
7 with the court a petition that asserts that an individual meets the  
8 criteria for ~~judicial admission~~ **TREATMENT** specified in section 515.

9 (2) The petition shall contain the alleged facts that are the  
10 basis for the assertion, the names and addresses, if known, of any  
11 witnesses to alleged and relevant facts, and if known the name and  
12 address of the nearest relative or guardian of the individual.

13 (3) If the petition appears on its face to be sufficient, the  
14 court shall order that the individual be examined and a report be  
15 prepared. To this end, the court shall appoint a qualified person  
16 who may but need not be an employee of the community mental health  
17 services program or the court to arrange for the examination, to  
18 prepare the report, and to file it with the court.

19 (4) If it appears to the court that the individual will not  
20 comply with an order of examination under subsection (3), the court  
21 may order a peace officer to take the individual into protective  
22 custody and transport him or her immediately to a ~~center~~ **FACILITY**  
23 recommended by the community mental health services program or  
24 other suitable place designated by the community mental health  
25 services program for up to 48 hours for the ordered examination.

26 (5) After examination, the individual shall be allowed to  
27 return home unless it appears to the court that he or she requires

1 immediate admission to the community mental health services  
2 program's recommended ~~center~~-**FACILITY** in order to prevent physical  
3 harm to himself, ~~or~~-herself, or others pending a hearing, in which  
4 case the court shall enter an order to that effect. If an  
5 individual is ordered admitted under this subsection, not later  
6 than 12 hours after he or she is admitted the ~~center~~-**FACILITY** shall  
7 provide him or her with a copy of the petition, a copy of the  
8 report, and a written statement in simple terms explaining the  
9 individual's rights to a hearing under section 517, to be present  
10 at the hearing and to be represented by legal counsel, if 1  
11 physician and 1 licensed psychologist or 2 physicians conclude that  
12 the individual meets the criteria for ~~judicial admission~~-**TREATMENT**.

13 (6) The report required by subsection (3) shall contain all of  
14 the following:

15 (a) Evaluations of the individual's mental, physical, social,  
16 and educational condition.

17 (b) A conclusion as to whether the individual meets the  
18 criteria for ~~judicial admission~~-**TREATMENT** specified in section 515.

19 (c) A list of available forms of care and treatment that may  
20 serve as an alternative to admission to a ~~center~~-**FACILITY**.

21 (d) A recommendation as to the most appropriate living  
22 arrangement for the individual in terms of type and location of  
23 living arrangement and the availability of requisite support  
24 services.

25 (e) The signatures of 1 physician and 1 licensed psychologist  
26 or 2 physicians who performed examinations serving in part as the  
27 basis of the report.

1 (7) A copy of the report required under subsection (3) shall  
2 be sent to the court immediately upon completion.

3 (8) The petition shall be dismissed by the court unless 1  
4 physician and 1 licensed psychologist or 2 physicians conclude, and  
5 that conclusion is stated in the report, that the individual meets  
6 the criteria for ~~judicial admission~~. **TREATMENT**.

7 (9) An individual whose admission was ordered under subsection  
8 (5) is entitled to a hearing in accordance with section 517.

9 Sec. 517. (1) ~~Hearings~~ **A HEARING** convened to determine whether  
10 an individual meets the criteria for ~~judicial admission~~ shall be  
11 **TREATMENT IS** governed by sections 517 to 522. Sections 517 to 522  
12 do not apply to ~~the~~ **A** hearing provided for in section 511  
13 concerning an objection to an administrative admission.

14 (2) Upon receipt of a petition and a report as provided for in  
15 section 516 or 532, or receipt of a petition as provided for in  
16 section 531, the court shall do all of the following:

17 (a) Fix a date for a hearing to be held within 7 days,  
18 excluding Sundays or holidays, after the court's receipt of the  
19 documents or document.

20 (b) Fix a place for a hearing, either at a ~~center~~ **FACILITY** or  
21 other convenient place, within or outside of the county.

22 (c) Cause notice of a petition and of the time and place of  
23 any hearing to be given to the individual asserted to meet the  
24 criteria for ~~judicial admission~~, **TREATMENT**, his or her attorney,  
25 the petitioner, the prosecuting or other attorney specified in  
26 subsection (4), the community mental health services program, the  
27 director of ~~any center~~ **A FACILITY** to which the individual is

1 admitted, the individual's spouse if his or her whereabouts are  
2 known, the guardian, if any, of the individual, and other relatives  
3 or persons as the court may determine. The notice shall be given at  
4 the earliest practicable time and sufficiently in advance of the  
5 hearing date to permit preparation for the hearing.

6 (d) Cause the individual to be given within 4 days of the  
7 court's receipt of the documents described in section 516 a copy of  
8 the petition, a copy of the report, unless the individual has  
9 previously been given a copy of the petition and the report, notice  
10 of the right to a full court hearing, notice of the right to be  
11 present at the hearing, notice of the right to be represented by  
12 legal counsel, notice of the right to demand a jury trial, and  
13 notice of the right to an independent clinical or psychological  
14 evaluation.

15 (e) Subsequently give copies of all orders to the persons  
16 identified in subdivision (c).

17 (3) The individual asserted to meet the criteria for ~~judicial~~  
18 ~~admission~~-**TREATMENT** is entitled to be represented by legal counsel  
19 in the same manner as counsel is provided under section 454, and is  
20 entitled to all of the following:

21 (a) To be present at the hearing.

22 (b) To have upon demand a trial by jury of 6.

23 (c) To obtain a continuance for any reasonable time for good  
24 cause.

25 (d) To present documents and witnesses.

26 (e) To cross-examine witnesses.

27 (f) To require testimony in court in person from 1 physician

1 or 1 licensed psychologist who has personally examined the  
2 individual.

3 (g) To receive an independent examination by a physician or  
4 licensed psychologist of his or her choice on the issue of whether  
5 he or she meets the criteria for ~~judicial admission~~. **TREATMENT**.

6 (4) The prosecuting attorney of the county in which a court  
7 has its principal office shall participate, either in person or by  
8 assistant, in hearings convened by the court of his or her county  
9 under this chapter, except that a prosecutor need not participate  
10 in or be present at a hearing whenever a petitioner or some other  
11 appropriate person has retained private counsel who will be present  
12 in court and will present to the court the case for a finding that  
13 the individual meets the criteria for ~~judicial admission~~. **TREATMENT**.

14 (5) Unless the individual or his or her attorney objects, the  
15 failure to timely notify a spouse, guardian, or other person  
16 determined by the court to be entitled to notice is not cause to  
17 adjourn or continue any hearing.

18 (6) The individual, any interested person, or the court on its  
19 own motion may request a change of venue because of residence;  
20 convenience to parties, witnesses, or the court; or the  
21 individual's mental or physical condition.

22 Sec. 518. (1) If the court finds that an individual does not  
23 meet the criteria for ~~judicial admission~~, **TREATMENT**, the court  
24 shall enter a finding to that effect, shall dismiss the petition,  
25 and shall direct that the individual be discharged if he or she has  
26 been admitted to a ~~center~~ **FACILITY** prior to the hearing.

27 (2) If the individual is found to meet the criteria for

1 ~~judicial admission, TREATMENT~~, the court shall do 1 **OR A**  
 2 **COMBINATION** of the following:

3 (a) Order the individual to be admitted to a ~~center~~-**FACILITY**  
 4 designated by the department and recommended by the community  
 5 mental health services program.

6 (b) Order the individual to be admitted to a licensed hospital  
 7 at the request of the individual or his or her family member, if  
 8 private funds are to be utilized and the private facility complies  
 9 with all of the admission, continuing care, and discharge duties  
 10 and requirements described in this chapter for ~~centers~~-**FACILITIES**.

11 (c) Order the individual to undergo a ~~a~~-**AN OUTPATIENT** program  
 12 for 1 year of care and treatment recommended by the community  
 13 mental health services program as an alternative to being admitted  
 14 to a ~~center~~-**FACILITY**.

15 Sec. 519. (1) ~~Prior to~~-**BEFORE** making an order of disposition  
 16 ~~pursuant to~~-**UNDER** section 518(2), the court shall consider ordering  
 17 a course of care and treatment that is an alternative to admission  
 18 to a ~~center~~-**FACILITY**. To that end, the court shall review the  
 19 report submitted to it ~~pursuant to~~-**THE COURT UNDER** section **516(3)**,  
 20 **SPECIFICALLY REVIEWING ALTERNATIVES AND RECOMMENDATIONS AS PROVIDED**  
 21 **UNDER SECTION** 516(6)(c) and (d).

22 (2) If the court finds that a program of care and treatment  
 23 other than admission to a ~~center~~-**FACILITY** is adequate to meet the  
 24 individual's care and treatment needs and is sufficient to prevent  
 25 harm or injury ~~which~~-**THAT** the individual may inflict upon himself,  
 26 ~~or~~ herself, or others, the court shall order the individual to  
 27 receive whatever care and treatment is appropriate under section

1 518(2) (c) .

2 (3) If at the end of ~~one~~**1** year it is believed that the  
3 individual continues to meet the criteria for ~~judicial admission,~~  
4 **TREATMENT**, a new petition may be filed under section 516.

5 (4) If at any time during the 1-year period it comes to the  
6 attention of the court either that an individual ordered to undergo  
7 a program of alternative care and treatment is not complying with  
8 the order or that the alternative care and treatment has not been  
9 sufficient to prevent harm or injuries ~~which~~**THAT** the individual  
10 may be inflicting upon himself, ~~or~~ herself, or others, the court  
11 may without a hearing and based upon the record and other available  
12 information do either of the following:

13 (a) Consider other alternatives to admission to a ~~center,~~  
14 **FACILITY**, modify its original order, and direct the individual to  
15 undergo another **OUTPATIENT** program of alternative care and  
16 treatment for the remainder of the 1-year period.

17 (b) Enter a new order ~~pursuant to~~**UNDER** section 518(2) (a) or  
18 (b) directing that the individual be admitted to a ~~center~~**FACILITY**  
19 recommended by the community mental health services program. If the  
20 individual refuses to comply with this order, the court may direct  
21 a peace officer to take the individual into protective custody and  
22 transport him or her to the ~~center~~**FACILITY** recommended by the  
23 community mental health services program.

24 Sec. 520. ~~Prior to~~**BEFORE** ordering the admission of an  
25 individual, the court shall inquire into the adequacy of care and  
26 treatment to be provided to the individual by the designated  
27 ~~center.~~**FACILITY**. Admission shall not be ordered unless the

1 recommended ~~center~~-**FACILITY** to which the individual is to be  
2 admitted can provide the individual with care and treatment that is  
3 adequate and appropriate to his or her condition.

4 Sec. 521. Preference between the ~~center~~-**FACILITY** recommended  
5 by the community mental health services program and other available  
6 facilities under contract with the community mental health services  
7 program shall be given to the facility that can appropriately meet  
8 the individual's needs in the least restrictive environment and  
9 that is located nearest to the individual's residence. If the  
10 individual requests it or there are other compelling reasons for an  
11 order reversing the preference, the community mental health  
12 services program may place the individual in a facility that is not  
13 the nearest to the individual's residence.

14 Sec. 525. (1) The director of a ~~center~~-**FACILITY** may at any  
15 time discharge an administratively ~~or judicially~~-admitted resident  
16 **OR A RESIDENT ADMITTED BY COURT ORDER** whom the director considers  
17 suitable for discharge.

18 (2) The director of a ~~center~~-**FACILITY** shall discharge a  
19 resident admitted by court order when the resident no longer meets  
20 the criteria for ~~judicial admission~~-**TREATMENT**.

21 (3) If a resident discharged under subsection (1) or (2) has  
22 been admitted to a ~~center~~-**FACILITY** by court order, or if court  
23 proceedings are pending, both the court and the community mental  
24 health services program shall be notified of the discharge by the  
25 ~~center~~-**FACILITY**. **IF A RESIDENT MET THE CRITERIA FOR TREATMENT UNDER**  
26 **SECTION 515(B), THE PROSECUTING ATTORNEY MUST ALSO BE NOTIFIED OF**  
27 **THE DISCHARGE BY A FACILITY.**



1 (4) If the court orders a person to be ~~judicially~~ admitted  
2 under section 515 subsequent to dismissal of felony charges under  
3 section 1044(1)(b), the court shall include both of the following  
4 statements in the order unless the time for petitioning to refile  
5 charges under section 1044 has elapsed:

6 (a) A requirement that not less than 30 days before the  
7 resident's scheduled release or discharge, the director of the  
8 treating facility shall notify the prosecutor's office in the  
9 county in which charges against the resident were originally  
10 brought that the resident's release or discharge is pending.

11 (b) A requirement that not less than 30 days before the  
12 resident's scheduled release or discharge, the resident undergo a  
13 competency examination as described in section 1026. A copy of the  
14 written report of the examination along with the notice required in  
15 subdivision (a) shall be submitted to the prosecutor's office in  
16 the county in which the charges against the resident were  
17 originally brought. The written report is admissible as provided in  
18 section 1030(3).

19 Sec. 526. (1) A person providing alternative care and  
20 treatment to an individual ~~pursuant to~~ **UNDER** section ~~518(2)(c)~~  
21 **518(2)(C)** may terminate the alternative care and treatment to an  
22 individual whom the provider of alternative care and treatment  
23 ~~deems~~ **CONSIDERS** suitable for termination of care and treatment and  
24 shall terminate the alternative care and treatment when the  
25 individual no longer meets the criteria for ~~judicial~~ admission.

26 (2) Upon termination of alternative care and treatment, the  
27 ~~court shall be so notified by the~~ provider of the alternative care

1 and treatment **SHALL NOTIFY THE COURT.**

2       Sec. 527. If, upon the discharge of an individual admitted by  
3 court order or upon termination of alternative care and treatment  
4 to an individual receiving care and treatment under section 518(2),  
5 the community mental health services program determines that the  
6 individual would benefit from the receipt of further care and  
7 treatment, ~~it~~ **THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM** shall  
8 make arrangements with the ~~center~~ **FACILITY** or provider of  
9 alternative care and treatment to continue to provide appropriate  
10 care and treatment to the individual on an administrative basis, or  
11 ~~it~~ **THE COMMUNITY MENTAL HEALTH SERVICES PROGRAM** shall assist the  
12 individual to obtain appropriate care and treatment from another  
13 source.

14       Sec. 528. (1) Except as provided in subsection (2), all leaves  
15 or absences from a ~~center~~ **FACILITY** other than release or discharge  
16 and all revocations of leaves and absences under section 537 ~~shall~~  
17 ~~be~~ **ARE** governed in accordance with rules or procedures established  
18 by the department or, in the case of a private facility, in  
19 accordance with procedures of its governing board.

20       (2) A resident who has been admitted subject to a court order  
21 and who has been on an authorized leave or absence from the ~~center~~  
22 **FACILITY** for a continuous period of 1 year shall be discharged.  
23 Upon the discharge, the court shall be notified by the  
24 ~~center~~ **FACILITY.**

25       Sec. 531. (1) Every resident admitted by court order has the  
26 right to regular, adequate, and prompt review of his or her current  
27 status as an individual meeting the criteria for ~~judicial~~

1 ~~admission.~~ **TREATMENT**. Six months after the date of an order of  
2 ~~judicial admission,~~ **TREATMENT**, and every 6 months after that, the  
3 director of a ~~center~~ **FACILITY** to which a resident was admitted  
4 shall review the resident's status as an individual meeting the  
5 criteria for ~~judicial admission.~~ **TREATMENT**.

6 (2) The results of each periodic review shall be made part of  
7 the resident's record, and shall be filed within 5 days of the  
8 review in the form of a written report with the court that ordered  
9 the resident's admission, and within the 5 days, notice of the  
10 results of the review shall be given by the facility to the  
11 resident, his or her attorney, and his or her nearest relative or  
12 guardian.

13 (3) If the report concludes that the resident continues to  
14 meet the criteria for ~~judicial admission,~~ **TREATMENT**, and the  
15 resident or someone on his or her behalf objects to that  
16 conclusion, the resident has the right to a hearing and all other  
17 rights expressed or implied in sections 517 to 522 and may petition  
18 the court for discharge. The petition shall be presented to the  
19 court or a representative of the ~~center~~ **FACILITY** within 7 days,  
20 excluding Sundays and holidays, after the report is received. If  
21 the petition is presented to a representative of the ~~center,~~  
22 **FACILITY**, the representative shall transmit it to the court  
23 immediately.

24 Sec. 532. In addition to the right to a hearing under section  
25 531, a resident admitted by court order has the right to a hearing  
26 and may petition the court for discharge without leave of court  
27 once within each 12-month period from the date of the original

1 order of admission. The petition shall be accompanied by a  
2 physician's or a licensed psychologist's report setting forth the  
3 reasons for the physician's or licensed psychologist's conclusion  
4 that the resident no longer meets the criteria for judicial  
5 ~~admission.~~ **TREATMENT**. If no report accompanies the petition because  
6 the resident is indigent or is unable for reasons satisfactory to  
7 the court to procure a report, the court shall appoint a physician  
8 or a licensed psychologist to examine the resident, and the  
9 physician or licensed psychologist shall furnish a report to the  
10 court. If the report concludes that the resident continues to meet  
11 the criteria for ~~judicial admission,~~ **TREATMENT**, the court shall so  
12 notify the resident and shall dismiss the petition for discharge.  
13 If the report concludes otherwise, a hearing shall be held ~~pursuant~~  
14 **ACCORDING** to sections 517 to 522.

15       Sec. 536. (1) A resident in a ~~center~~ **FACILITY** may be  
16 transferred to any other ~~center,~~ **FACILITY**, or to a hospital  
17 operated by the department, if the transfer would not be  
18 detrimental to the resident and the responsible community mental  
19 health services program approves the transfer.

20       (2) The resident and his or her nearest relative or guardian  
21 shall be notified at least 7 days ~~prior to~~ **BEFORE** any transfer,  
22 except that a transfer may be effected earlier if necessitated by  
23 an emergency. In addition, the resident may designate 2 other  
24 persons to receive the notice. If the resident, his or her nearest  
25 relative, or guardian objects to the transfer, the department shall  
26 provide an opportunity to appeal the transfer.

27       (3) If a transfer is effected due to an emergency, the

1 required notices shall be given as soon as possible, but not later  
2 than 24 hours after the transfer.

3 Sec. 537. (1) An individual is subject to being returned to a  
4 ~~center-FACILITY~~ if both of the following are true:

5 (a) The individual was admitted to a ~~center-FACILITY~~ on an  
6 application executed by someone other than himself or herself or by  
7 judicial order.

8 (b) The individual has left the ~~center-FACILITY~~ without  
9 authorization, or has refused a lawful request to return to the  
10 ~~center-FACILITY~~ while on an authorized leave or other authorized  
11 absence from the ~~center-FACILITY~~.

12 (2) The ~~center-FACILITY~~ may notify peace officers that an  
13 individual is subject to being returned to the ~~center-FACILITY~~.  
14 Upon notification, a peace officer shall take the individual into  
15 protective custody and return him or her to the ~~center-FACILITY~~  
16 unless contrary directions have been given by the ~~center-FACILITY~~  
17 or the responsible community mental health services program.

18 (3) An opportunity for appeal shall be provided to any  
19 individual returned over his or her objection from any authorized  
20 leave in excess of 10 days, and the individual shall be notified of  
21 his or her right to appeal. In the case of a child less than 13  
22 years of age, the appeal shall be made by his or her parent or  
23 guardian.

24 Sec. 540. (1) A determination that an individual meets the  
25 criteria for ~~judicial admission, TREATMENT~~, a court order directing  
26 that an individual be admitted to a ~~center-FACILITY~~ or receive  
27 alternative care and treatment, or any form of admission to a

1 private facility ~~shall~~**DOES** not give rise to a presumption of,  
2 constitute a finding of, or operate as an adjudication of legal  
3 incompetence.

4 (2) An order of commitment under any previous statute of this  
5 state ~~shall~~**DOES** not, in the absence of a concomitant appointment  
6 of a guardian, constitute a finding of or operate as an  
7 adjudication of legal incompetence.

8 Sec. 541. An individual admitted to a ~~center~~**FACILITY** shall at  
9 the time of admission receive a copy of section 540. An individual  
10 discharged from a ~~center~~**FACILITY** shall receive a copy of section  
11 540 upon request.

12 Enacting section 1. This amendatory act takes effect 90 days  
13 after the date it is enacted into law.