



Sen. Jil Tracy

Filed: 3/1/2017

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LRB100 04290 HEP 22371 a

1 AMENDMENT TO SENATE BILL 656

2 AMENDMENT NO. _____. Amend Senate Bill 656 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Mental Health and Developmental
5 Disabilities Confidentiality Act is amended by changing
6 Section 11 as follows:

7 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

8 Sec. 11. Disclosure of records and communications. Records
9 and communications may be disclosed:

10 (i) in accordance with the provisions of the Abused and
11 Neglected Child Reporting Act, subsection (u) of Section 5
12 of the Children and Family Services Act, or Section 7.4 of
13 the Child Care Act of 1969;

14 (ii) when, and to the extent, a therapist, in his or
15 her sole discretion, determines that disclosure is
16 necessary to initiate or continue civil commitment or

1 involuntary treatment proceedings under the laws of this
2 State or to otherwise protect the recipient or other person
3 against a clear, imminent risk of serious physical or
4 mental injury or disease or death being inflicted upon the
5 recipient or by the recipient on himself or another;

6 (iii) when, and to the extent disclosure is, in the
7 sole discretion of the therapist, necessary to the
8 provision of emergency medical care to a recipient who is
9 unable to assert or waive his or her rights hereunder;

10 (iv) when disclosure is necessary to collect sums or
11 receive third party payment representing charges for
12 mental health or developmental disabilities services
13 provided by a therapist or agency to a recipient under
14 Chapter V of the Mental Health and Developmental
15 Disabilities Code or to transfer debts under the
16 Uncollected State Claims Act; however, disclosure shall be
17 limited to information needed to pursue collection, and the
18 information so disclosed shall not be used for any other
19 purposes nor shall it be redisclosed except in connection
20 with collection activities;

21 (v) when requested by a family member, the Department
22 of Human Services may assist in the location of the
23 interment site of a deceased recipient who is interred in a
24 cemetery established under Section 26 of the Mental Health
25 and Developmental Disabilities Administrative Act;

26 (vi) in judicial proceedings under Article VIII of

1 Chapter III and Article V of Chapter IV of the Mental
2 Health and Developmental Disabilities Code and proceedings
3 and investigations preliminary thereto, to the State's
4 Attorney for the county or residence of a person who is the
5 subject of such proceedings, or in which the person is
6 found, or in which the facility is located, to the attorney
7 representing the petitioner in the judicial proceedings,
8 to the attorney representing the recipient in the judicial
9 proceedings, to any person or agency providing mental
10 health services that are the subject of the proceedings and
11 to that person's or agency's attorney, to any court
12 personnel, including but not limited to judges and circuit
13 court clerks, and to a guardian ad litem if one has been
14 appointed by the court. Information disclosed under this
15 subsection shall not be utilized for any other purpose nor
16 be redisclosed except in connection with the proceedings or
17 investigations. Copies of any records provided to counsel
18 for a petitioner shall be deleted or destroyed at the end
19 of the proceedings and counsel for petitioner shall certify
20 to the court in writing that he or she has done so. At the
21 request of a recipient or his or her counsel, the court
22 shall issue a protective order ensuring ~~insuring~~ the
23 confidentiality of any records or communications provided
24 to counsel for a petitioner;

25 (vii) when, and to the extent disclosure is necessary
26 to comply with the requirements of the Census Bureau in

1 taking the federal Decennial Census;

2 (viii) when, and to the extent, in the therapist's sole
3 discretion, disclosure is necessary to warn or protect a
4 specific individual against whom a recipient has made a
5 specific threat of violence where there exists a
6 therapist-recipient relationship or a special
7 recipient-individual relationship;

8 (ix) in accordance with the Sex Offender Registration
9 Act;

10 (x) in accordance with the Rights of Crime Victims and
11 Witnesses Act;

12 (xi) in accordance with Section 6 of the Abused and
13 Neglected Long Term Care Facility Residents Reporting Act;

14 (xii) in accordance with Section 55 of the Abuse of
15 Adults with Disabilities Intervention Act;

16 (xiii) to an HIE as specifically allowed under this Act
17 for HIE purposes and in accordance with any applicable
18 requirements of the HIE; ~~and~~

19 (xiv) to a law enforcement agency in connection with
20 the investigation or recovery of a person who has left a
21 mental health or developmental disability facility as
22 defined in Section 1-107 or 1-114 of the Mental Health and
23 Developmental Disabilities Code or the custody of the
24 Department of Human Services without being duly discharged
25 or being free to do so; however, disclosure shall be
26 limited to identifying information as defined in Section

1 12.2 of this Act; and -

2 (xv) in a hearing conducted under Article 110 of Title
3 III of the Code of Criminal Procedure of 1963, to a public
4 defender or other attorney appointed by the court or
5 retained by a criminal defendant for the purpose of
6 preparing for and conducting a hearing to determine whether
7 to release the defendant on her or his own recognizance or
8 to determine the amount of bail or the conditions of the
9 bail bond. Information disclosed under this subsection
10 shall not be used for any other purpose nor be redisclosed
11 except in connection with the proceedings. Copies of any
12 records provided to counsel for a defendant shall be
13 deleted or destroyed at the end of the proceedings and
14 counsel for defendant shall certify to the court in writing
15 that he or she has done so. At the request of a recipient
16 or his or her counsel, the court shall issue a protective
17 order ensuring the confidentiality of any records or
18 communications provided to counsel for a defendant.

19 Any person, institution, or agency, under this Act,
20 participating in good faith in the making of a report under the
21 Abused and Neglected Child Reporting Act or in the disclosure
22 of records and communications under this Section, shall have
23 immunity from any liability, civil, criminal or otherwise, that
24 might result by reason of such action. For the purpose of any
25 proceeding, civil or criminal, arising out of a report or
26 disclosure under this Section, the good faith of any person,

1 institution, or agency so reporting or disclosing shall be
2 presumed.

3 (Source: P.A. 98-378, eff. 8-16-13; 99-216, eff. 7-31-15.)".