



Rep. Robyn Gabel

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1 AMENDMENT TO SENATE BILL 1702

2 AMENDMENT NO. _____. Amend Senate Bill 1702 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Sections 2-108, 2-109,
6 3-602, 3-603, 3-610, 3-702, 3-703, 3-752, 3-753, and 3-807 and
7 by adding Section 1-101.3 as follows:

8 (405 ILCS 5/1-101.3 new)

9 Sec. 1-101.3. Advanced practice psychiatric nurse.

10 "Advanced practice psychiatric nurse" means a nurse who is
11 licensed to practice as an advanced practice registered nurse
12 under Section 65-5 of the Nurse Practice Act and has been
13 certified by the American Nurses Credentialing Center as a
14 psychiatric mental health clinical nurse specialist or a
15 psychiatric mental health nurse practitioner.

1 (405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108)

2 Sec. 2-108. Use of restraint. Restraint may be used only as
3 a therapeutic measure to prevent a recipient from causing
4 physical harm to himself or physical abuse to others. Restraint
5 may only be applied by a person who has been trained in the
6 application of the particular type of restraint to be utilized.
7 In no event shall restraint be utilized to punish or discipline
8 a recipient, nor is restraint to be used as a convenience for
9 the staff.

10 (a) Except as provided in this Section, restraint shall be
11 employed only upon the written order of a physician, clinical
12 psychologist, clinical social worker, clinical professional
13 counselor, advanced practice psychiatric nurse, or registered
14 nurse with supervisory responsibilities. No restraint shall be
15 ordered unless the physician, clinical psychologist, clinical
16 social worker, clinical professional counselor, advanced
17 practice psychiatric nurse, or registered nurse with
18 supervisory responsibilities, after personally observing and
19 examining the recipient, is clinically satisfied that the use
20 of restraint is justified to prevent the recipient from causing
21 physical harm to himself or others. In no event may restraint
22 continue for longer than 2 hours unless within that time period
23 a nurse with supervisory responsibilities, advanced practice
24 psychiatric nurse, or a physician confirms, in writing,
25 following a personal examination of the recipient, that the
26 restraint does not pose an undue risk to the recipient's health

1 in light of the recipient's physical or medical condition. The
2 order shall state the events leading up to the need for
3 restraint and the purposes for which restraint is employed. The
4 order shall also state the length of time restraint is to be
5 employed and the clinical justification for that length of
6 time. No order for restraint shall be valid for more than 16
7 hours. If further restraint is required, a new order must be
8 issued pursuant to the requirements provided in this Section.

9 (b) In the event there is an emergency requiring the
10 immediate use of restraint, it may be ordered temporarily by a
11 qualified person only where a physician, clinical
12 psychologist, clinical social worker, clinical professional
13 counselor, advanced practice psychiatric nurse, or registered
14 nurse with supervisory responsibilities is not immediately
15 available. In that event, an order by a nurse, clinical
16 psychologist, clinical social worker, clinical professional
17 counselor, advanced practice psychiatric nurse, or physician
18 shall be obtained pursuant to the requirements of this Section
19 as quickly as possible, and the recipient shall be examined by
20 a physician or supervisory nurse within 2 hours after the
21 initial employment of the emergency restraint. Whoever orders
22 restraint in emergency situations shall document its necessity
23 and place that documentation in the recipient's record.

24 (c) The person who orders restraint shall inform the
25 facility director or his designee in writing of the use of
26 restraint within 24 hours.

1 (d) The facility director shall review all restraint orders
2 daily and shall inquire into the reasons for the orders for
3 restraint by any person who routinely orders them.

4 (e) Restraint may be employed during all or part of one 24
5 hour period, the period commencing with the initial application
6 of the restraint. However, once restraint has been employed
7 during one 24 hour period, it shall not be used again on the
8 same recipient during the next 48 hours without the prior
9 written authorization of the facility director.

10 (f) Restraint shall be employed in a humane and therapeutic
11 manner and the person being restrained shall be observed by a
12 qualified person as often as is clinically appropriate but in
13 no event less than once every 15 minutes. The qualified person
14 shall maintain a record of the observations. Specifically,
15 unless there is an immediate danger that the recipient will
16 physically harm himself or others, restraint shall be loosely
17 applied to permit freedom of movement. Further, the recipient
18 shall be permitted to have regular meals and toilet privileges
19 free from the restraint, except when freedom of action may
20 result in physical harm to the recipient or others.

21 (g) Every facility that employs restraint shall provide
22 training in the safe and humane application of each type of
23 restraint employed. The facility shall not authorize the use of
24 any type of restraint by an employee who has not received
25 training in the safe and humane application of that type of
26 restraint. Each facility in which restraint is used shall

1 maintain records detailing which employees have been trained
2 and are authorized to apply restraint, the date of the training
3 and the type of restraint that the employee was trained to use.

4 (h) Whenever restraint is imposed upon any recipient whose
5 primary mode of communication is sign language, the recipient
6 shall be permitted to have his hands free from restraint for
7 brief periods each hour, except when freedom may result in
8 physical harm to the recipient or others.

9 (i) A recipient who is restrained may only be secluded at
10 the same time pursuant to an explicit written authorization as
11 provided in Section 2-109 of this Code. Whenever a recipient is
12 restrained, a member of the facility staff shall remain with
13 the recipient at all times unless the recipient has been
14 secluded. A recipient who is restrained and secluded shall be
15 observed by a qualified person as often as is clinically
16 appropriate but in no event less than every 15 minutes.

17 (j) Whenever restraint is used, the recipient shall be
18 advised of his right, pursuant to Sections 2-200 and 2-201 of
19 this Code, to have any person of his choosing, including the
20 Guardianship and Advocacy Commission or the agency designated
21 pursuant to the Protection and Advocacy for Persons with
22 Developmental Disabilities Act notified of the restraint. A
23 recipient who is under guardianship may request that any person
24 of his choosing be notified of the restraint whether or not the
25 guardian approves of the notice. Whenever the Guardianship and
26 Advocacy Commission is notified that a recipient has been

1 restrained, it shall contact that recipient to determine the
2 circumstances of the restraint and whether further action is
3 warranted.

4 (Source: P.A. 98-137, eff. 8-2-13; 99-143, eff. 7-27-15.)

5 (405 ILCS 5/2-109) (from Ch. 91 1/2, par. 2-109)

6 Sec. 2-109. Seclusion. Seclusion may be used only as a
7 therapeutic measure to prevent a recipient from causing
8 physical harm to himself or physical abuse to others. In no
9 event shall seclusion be utilized to punish or discipline a
10 recipient, nor is seclusion to be used as a convenience for the
11 staff.

12 (a) Seclusion shall be employed only upon the written order
13 of a physician, clinical psychologist, clinical social worker,
14 clinical professional counselor, advanced practice psychiatric
15 nurse, or registered nurse with supervisory responsibilities.
16 No seclusion shall be ordered unless the physician, clinical
17 psychologist, clinical social worker, clinical professional
18 counselor, advanced practice psychiatric nurse, or registered
19 nurse with supervisory responsibilities, after personally
20 observing and examining the recipient, is clinically satisfied
21 that the use of seclusion is justified to prevent the recipient
22 from causing physical harm to himself or others. In no event
23 may seclusion continue for longer than 2 hours unless within
24 that time period a nurse with supervisory responsibilities,
25 advanced practice psychiatric nurse, or a physician confirms in

1 writing, following a personal examination of the recipient,
2 that the seclusion does not pose an undue risk to the
3 recipient's health in light of the recipient's physical or
4 medical condition. The order shall state the events leading up
5 to the need for seclusion and the purposes for which seclusion
6 is employed. The order shall also state the length of time
7 seclusion is to be employed and the clinical justification for
8 the length of time. No order for seclusion shall be valid for
9 more than 16 hours. If further seclusion is required, a new
10 order must be issued pursuant to the requirements provided in
11 this Section.

12 (b) The person who orders seclusion shall inform the
13 facility director or his designee in writing of the use of
14 seclusion within 24 hours.

15 (c) The facility director shall review all seclusion orders
16 daily and shall inquire into the reasons for the orders for
17 seclusion by any person who routinely orders them.

18 (d) Seclusion may be employed during all or part of one 16
19 hour period, that period commencing with the initial
20 application of the seclusion. However, once seclusion has been
21 employed during one 16 hour period, it shall not be used again
22 on the same recipient during the next 48 hours without the
23 prior written authorization of the facility director.

24 (e) The person who ordered the seclusion shall assign a
25 qualified person to observe the recipient at all times. A
26 recipient who is restrained and secluded shall be observed by a

1 qualified person as often as is clinically appropriate but in
2 no event less than once every 15 minutes.

3 (f) Safety precautions shall be followed to prevent
4 injuries to the recipient in the seclusion room. Seclusion
5 rooms shall be adequately lighted, heated, and furnished. If a
6 door is locked, someone with a key shall be in constant
7 attendance nearby.

8 (g) Whenever seclusion is used, the recipient shall be
9 advised of his right, pursuant to Sections 2-200 and 2-201 of
10 this Code, to have any person of his choosing, including the
11 Guardianship and Advocacy Commission notified of the
12 seclusion. A person who is under guardianship may request that
13 any person of his choosing be notified of the seclusion whether
14 or not the guardian approves of the notice. Whenever the
15 Guardianship and Advocacy Commission is notified that a
16 recipient has been secluded, it shall contact that recipient to
17 determine the circumstances of the seclusion and whether
18 further action is warranted.

19 (Source: P.A. 98-137, eff. 8-2-13.)

20 (405 ILCS 5/3-602) (from Ch. 91 1/2, par. 3-602)

21 Sec. 3-602. The petition shall be accompanied by a
22 certificate executed by a physician, qualified examiner,
23 psychiatrist, advanced practice psychiatric nurse, or clinical
24 psychologist which states that the respondent is subject to
25 involuntary admission on an inpatient basis and requires

1 immediate hospitalization. The certificate shall indicate that
2 the physician, qualified examiner, psychiatrist, advanced
3 practice psychiatric nurse, or clinical psychologist
4 personally examined the respondent not more than 72 hours prior
5 to admission. It shall also contain the physician's, qualified
6 examiner's, psychiatrist's, advanced practice psychiatric
7 nurse's, or clinical psychologist's clinical observations,
8 other factual information relied upon in reaching a diagnosis,
9 and a statement as to whether the respondent was advised of his
10 rights under Section 3-208.

11 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

12 (405 ILCS 5/3-603) (from Ch. 91 1/2, par. 3-603)

13 Sec. 3-603. (a) If no physician, qualified examiner,
14 psychiatrist, advanced practice psychiatric nurse, or clinical
15 psychologist is immediately available or it is not possible
16 after a diligent effort to obtain the certificate provided for
17 in Section 3-602, the respondent may be detained for
18 examination in a mental health facility upon presentation of
19 the petition alone pending the obtaining of such a certificate.

20 (b) In such instance the petition shall conform to the
21 requirements of Section 3-601 and further specify that:

22 1. the petitioner believes, as a result of his personal
23 observation, that the respondent is subject to involuntary
24 admission on an inpatient basis;

25 2. a diligent effort was made to obtain a certificate;

1 3. no physician, qualified examiner, psychiatrist, or
2 clinical psychologist could be found who has examined or
3 could examine the respondent; and

4 4. a diligent effort has been made to convince the
5 respondent to appear voluntarily for examination by a
6 physician, qualified examiner, psychiatrist, or clinical
7 psychologist, unless the petitioner reasonably believes
8 that effort would impose a risk of harm to the respondent
9 or others.

10 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

11 (405 ILCS 5/3-610) (from Ch. 91 1/2, par. 3-610)

12 Sec. 3-610. As soon as possible but not later than 24
13 hours, excluding Saturdays, Sundays and holidays, after
14 admission of a respondent pursuant to this Article, the
15 respondent shall be personally examined by a psychiatrist. The
16 psychiatrist may be a member of the staff of the facility but
17 shall not be the person who executed the first certificate. If
18 a certificate has already been completed by a psychiatrist
19 following the respondent's admission, the respondent shall be
20 examined by another psychiatrist or by a physician, clinical
21 psychologist, advanced practice psychiatric nurse, or
22 qualified examiner. If, as a result of this second examination,
23 a certificate is executed, the certificate shall be promptly
24 filed with the court. If the certificate states that the
25 respondent is subject to involuntary admission but not in need

1 of immediate hospitalization, the respondent may remain in his
2 or her place of residence pending a hearing on the petition
3 unless he or she voluntarily agrees to inpatient treatment. If
4 the respondent is not examined or if the psychiatrist,
5 physician, clinical psychologist, advanced practice
6 psychiatric nurse, or qualified examiner does not execute a
7 certificate pursuant to Section 3-602, the respondent shall be
8 released forthwith. For the purpose of this Section, a personal
9 examination includes an examination performed in real time
10 (synchronous examination) via an Interactive Telecommunication
11 System as defined in 89 Ill. Adm. Code 140.403(a)(5). An
12 examination via an Interactive Telecommunication System may
13 only be used for certification under this Section when a
14 psychiatrist is not on-site within the time period set forth in
15 this Section. If the examination is performed via an
16 Interactive Communication System, that fact shall be noted on
17 the certificate.

18 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

19 (405 ILCS 5/3-702) (from Ch. 91 1/2, par. 3-702)

20 Sec. 3-702. (a) The petition may be accompanied by the
21 certificate of a physician, qualified examiner, psychiatrist,
22 advanced practice psychiatric nurse, or clinical psychologist
23 which certifies that the respondent is subject to involuntary
24 admission on an inpatient basis and which contains the other
25 information specified in Section 3-602.

1 (b) Upon receipt of the petition either with or without a
2 certificate, if the court finds the documents are in order, it
3 may make such orders pursuant to Section 3-703 as are necessary
4 to provide for examination of the respondent. If the petition
5 is not accompanied by 2 certificates executed pursuant to
6 Section 3-703, the court may order the respondent to present
7 himself for examination at a time and place designated by the
8 court. If the petition is accompanied by 2 certificates
9 executed pursuant to Section 3-703 and the court finds the
10 documents are in order, it shall set the matter for hearing.

11 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

12 (405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

13 Sec. 3-703. If no certificate was filed, the respondent
14 shall be examined separately by a physician, or clinical
15 psychologist, advanced practice psychiatric nurse, or
16 qualified examiner and by a psychiatrist. If a certificate
17 executed by a psychiatrist was filed, the respondent shall be
18 examined by a physician, clinical psychologist, qualified
19 examiner, advanced practice psychiatric nurse, or
20 psychiatrist. If a certificate executed by a qualified
21 examiner, clinical psychologist, advanced practice psychiatric
22 nurse, or a physician who is not a psychiatrist was filed, the
23 respondent shall be examined by a psychiatrist. The examining
24 physician, clinical psychologist, qualified examiner, advanced
25 practice psychiatric nurse, or psychiatrist may interview by

1 telephone or in person any witnesses or other persons listed in
2 the petition for involuntary admission. If, as a result of an
3 examination, a certificate is executed, the certificate shall
4 be promptly filed with the court. If a certificate is executed,
5 the examining physician, clinical psychologist, qualified
6 examiner, advanced practice psychiatric nurse, or psychiatrist
7 may also submit for filing with the court a report in which his
8 findings are described in detail, and may rely upon such
9 findings for his opinion that the respondent is subject to
10 involuntary admission on an inpatient basis. Copies of the
11 certificates shall be made available to the attorneys for the
12 parties upon request prior to the hearing. A certificate
13 prepared in compliance with this Article shall state whether or
14 not the respondent is in need of immediate hospitalization.
15 However, if both the certificates state that the respondent is
16 not in need of immediate hospitalization, the respondent may
17 remain in his or her place of residence pending a hearing on
18 the petition unless he or she voluntarily agrees to inpatient
19 treatment.

20 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

21 (405 ILCS 5/3-752)

22 Sec. 3-752. Certificate.

23 (a) The petition may be accompanied by the certificate of a
24 physician, qualified examiner, psychiatrist, advanced practice
25 psychiatric nurse, or clinical psychologist which certifies

1 that the respondent is subject to involuntary admission on an
2 outpatient basis. The certificate shall indicate that the
3 physician, qualified examiner, advanced practice psychiatric
4 nurse, or clinical psychologist personally examined the
5 respondent not more than 72 hours prior to the completion of
6 the certificate. It shall also contain the physician's,
7 qualified examiner's, advanced practice psychiatric nurse's,
8 or clinical psychologist's clinical observations, other
9 factual information relied upon in reaching a diagnosis, and a
10 statement as to whether the respondent was advised of his or
11 her rights under Section 3-208.

12 (b) Upon receipt of the petition either with or without a
13 certificate, if the court finds the documents are in order, it
14 may make such orders pursuant to Section 3-753 as are necessary
15 to provide for examination of the respondent. If the petition
16 is not accompanied by 2 certificates executed pursuant to
17 Section 3-753, the court may order the respondent to present
18 himself or herself for examination at a time and place
19 designated by the court. If the petition is accompanied by 2
20 certificates executed pursuant to Section 3-753 and the court
21 finds the documents are in order, the court shall set the
22 matter for hearing.

23 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

24 (405 ILCS 5/3-753)

25 Sec. 3-753. Examination. If no certificate was filed, the

1 respondent shall be examined separately by a physician, ~~or~~
2 clinical psychologist, advanced practice psychiatric nurse, or
3 qualified examiner and by a psychiatrist. If a certificate
4 executed by a psychiatrist was filed, the respondent shall be
5 examined by a physician, clinical psychologist, qualified
6 examiner, advanced practice psychiatric nurse, or
7 psychiatrist. If a certificate executed by a qualified
8 examiner, clinical psychologist, advanced practice psychiatric
9 nurse, or a physician who is not a psychiatrist was filed, the
10 respondent shall be examined by a psychiatrist. The examining
11 physician, clinical psychologist, qualified examiner, advanced
12 practice psychiatric nurse, or psychiatrist may interview by
13 telephone or in person any witnesses or other persons listed in
14 the petition for involuntary admission. If, as a result of an
15 examination, a certificate is executed, the certificate shall
16 be promptly filed with the court. If a certificate is executed,
17 the examining physician, clinical psychologist, qualified
18 examiner, advanced practice psychiatric nurse, or psychiatrist
19 may also submit for filing with the court a report in which his
20 or her findings are described in detail, and may rely upon such
21 findings for his opinion that the respondent is subject to
22 involuntary admission. Copies of the certificates shall be made
23 available to the attorneys for the parties upon request prior
24 to the hearing.

25 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

1 (405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

2 Sec. 3-807. No respondent may be found subject to
3 involuntary admission on an inpatient or outpatient basis
4 unless at least one psychiatrist, clinical social worker,
5 clinical psychologist, advanced practice psychiatric nurse, or
6 qualified examiner who has examined the respondent testifies in
7 person at the hearing. The respondent may waive the requirement
8 of the testimony subject to the approval of the court.

9 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10;
10 97-121, eff. 7-14-11.)".