

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by adding Article 5A to Chapter
6 III as follows:

7 (405 ILCS 5/Ch. III, Art. V-A heading new)

8 ARTICLE V-A. RIGHT OF MINORS TO CONSENT TO COUNSELING SERVICES
9 OR PSYCHOTHERAPY ON AN OUTPATIENT BASIS

10 (405 ILCS 5/3-5A-105 new)

11 Sec. 3-5A-105. Minors 12 years of age or older request to
12 receive counseling services or psychotherapy on an outpatient
13 basis.

14 (a) Any minor 12 years of age or older may request and
15 receive counseling services or psychotherapy on an outpatient
16 basis. The consent of the minor's parent, guardian, or person
17 in loco parentis shall not be necessary to authorize outpatient
18 counseling services or psychotherapy. However, until the
19 consent of the minor's parent, guardian, or person in loco
20 parentis has been obtained, outpatient counseling services or
21 psychotherapy provided to a minor under the age of 17 shall be
22 initially limited to not more than 8 90-minute sessions. The

1 service provider shall consider the factors contained in
2 subsection (a-1) of this Section throughout the therapeutic
3 process to determine, through consultation with the minor,
4 whether attempting to obtain the consent of a parent, guardian,
5 or person in loco parentis would be detrimental to the minor's
6 well-being. No later than the eighth session, the service
7 provider shall determine and share with the minor the service
8 provider's decision as described below:

9 (1) If the service provider finds that attempting to
10 obtain consent would not be detrimental to the minor's
11 well-being, the provider shall notify the minor that the
12 consent of a parent, guardian, or person in loco parentis
13 is required to continue counseling services or
14 psychotherapy.

15 (2) If the minor does not permit the service provider
16 to notify the parent, guardian, or person in loco parentis
17 for the purpose of consent after the eighth session the
18 service provider shall discontinue counseling services or
19 psychotherapy and shall not notify the parent, guardian, or
20 person in loco parentis about the counseling services or
21 psychotherapy.

22 (3) If the minor permits the service provider to notify
23 the parent, guardian, or person in loco parentis for the
24 purpose of consent, without discontinuing counseling
25 services or psychotherapy, the service provider shall make
26 reasonable attempts to obtain consent. The service

1 provider shall document each attempt to obtain consent in
2 the minor's clinical record. The service provider may
3 continue to provide counseling services or psychotherapy
4 without the consent of the minor's parent, guardian, or
5 person in loco parentis if:

6 (A) the service provider has made at least 2
7 unsuccessful attempts to contact the minor's parent,
8 guardian, or person in loco parentis to obtain consent;
9 and

10 (B) the service provider has obtained the minor's
11 written consent.

12 (4) If, after the eighth session, the service provider
13 of counseling services or psychotherapy determines that
14 obtaining consent would be detrimental to the minor's
15 well-being, the service provider shall consult with his or
16 her supervisor when possible to review and authorize the
17 determination under subsection (a) of this Section. The
18 service provider shall document the basis for the
19 determination in the minor's clinical record and may then
20 accept the minor's written consent to continue to provide
21 counseling services or psychotherapy without also
22 obtaining the consent of a parent, guardian, or person in
23 loco parentis.

24 (5) If the minor continues to receive counseling
25 services or psychotherapy without the consent of a parent,
26 guardian, or person in loco parentis beyond 8 sessions, the

1 service provider shall evaluate, in consultation with his
2 or her supervisor when possible, his or her determination
3 under this subsection (a), and review the determination
4 every 60 days until counseling services or psychotherapy
5 ends or the minor reaches age 17. If it is determined
6 appropriate to notify the parent, guardian, or person in
7 loco parentis and the minor consents, the service provider
8 shall proceed under paragraph (3) of subsection (a) of this
9 Section.

10 (6) When counseling services or psychotherapy are
11 related to allegations of neglect, sexual abuse, or mental
12 or physical abuse by the minor's parent, guardian, or
13 person in loco parentis, obtaining consent of that parent,
14 guardian, or person in loco parentis shall be presumed to
15 be detrimental to the minor's well-being.

16 (a-1) Each of the following factors must be present in
17 order for the service provider to find that obtaining the
18 consent of a parent, guardian, or person in loco parentis would
19 be detrimental to the minor's well-being:

20 (1) requiring the consent or notification of a parent,
21 guardian, or person in loco parentis would cause the minor
22 to reject the counseling services or psychotherapy;

23 (2) the failure to provide the counseling services or
24 psychotherapy would be detrimental to the minor's
25 well-being;

26 (3) the minor has knowingly and voluntarily sought the

1 counseling services or psychotherapy; and

2 (4) in the opinion of the service provider, the minor
3 is mature enough to participate in counseling services or
4 psychotherapy productively.

5 (a-2) The minor's parent, guardian, or person in loco
6 parentis shall not be informed of the counseling services or
7 psychotherapy without the written consent of the minor unless
8 the service provider believes the disclosure is necessary under
9 subsection (a) of this Section. If the facility director or
10 service provider intends to disclose the fact of counseling
11 services or psychotherapy, the minor shall be so informed and
12 if the minor chooses to discontinue counseling services or
13 psychotherapy after being informed of the decision of the
14 facility director or service provider to disclose the fact of
15 counseling services or psychotherapy to the parent, guardian,
16 or person in loco parentis, then the parent, guardian, or
17 person in loco parentis shall not be notified. Under the Mental
18 Health and Developmental Disabilities Confidentiality Act, the
19 facility director, his or her designee, or the service provider
20 shall not allow the minor's parent, guardian, or person in loco
21 parentis, upon request, to inspect or copy the minor's record
22 or any part of the record if the service provider finds that
23 there are compelling reasons for denying the access. Nothing in
24 this Section shall be interpreted to limit a minor's privacy
25 and confidentiality protections under State law.

26 (b) The minor's parent, guardian, or person in loco

1 parentis shall not be liable for the costs of outpatient
2 counseling services or psychotherapy which is received by the
3 minor without the consent of the minor's parent, guardian, or
4 person in loco parentis.

5 (c) Counseling services or psychotherapy provided under
6 this Section shall be provided in compliance with the
7 Professional Counselor and Clinical Professional Counselor
8 Licensing and Practice Act, the Clinical Social Work and Social
9 Work Practice Act, or the Clinical Psychologist Licensing Act.

10 (405 ILCS 5/3-501 rep.)

11 Section 105. The Mental Health and Developmental
12 Disabilities Code is amended by repealing Section 3-501.

13 Section 999. Effective date. This Act takes effect upon
14 becoming law.