



Rep. Kathleen Willis

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LRB100 03174 RLC 37525 a

1 AMENDMENT TO HOUSE BILL 1443

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1443 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Right  
5 of Minors to Consent to Counseling Services or Psychotherapy on  
6 an Outpatient Basis Act.

7 Section 5. Minors 12 years of age or older request to  
8 receive counseling services or psychotherapy on an outpatient  
9 basis.

10 (a) Any minor 12 years of age or older may request and  
11 receive counseling services or psychotherapy on an outpatient  
12 basis. The consent of the minor's parent, guardian, or person  
13 in loco parentis shall not be necessary to authorize outpatient  
14 counseling services or psychotherapy. However, until the  
15 consent of the minor's parent, guardian, or person in loco  
16 parentis has been obtained, outpatient counseling services or

1 psychotherapy provided to a minor under the age of 17 shall be  
2 initially limited to not more than 8 90-minute sessions. The  
3 service provider shall consider the factors contained in  
4 subsection (a-1) of this Section throughout the therapeutic  
5 process to determine, through consultation with the minor,  
6 whether attempting to obtain the consent of a parent, guardian,  
7 or person in loco parentis would be detrimental to the minor's  
8 well-being. No later than the eighth session, the service  
9 provider shall determine and share with the minor the service  
10 provider's decision as described below:

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

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

24 (3) If the minor permits the service provider to notify  
25 the parent, guardian, or person in loco parentis for the  
26 purpose of consent, without discontinuing counseling

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

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

12 (B) the service provider has obtained the minor's  
13 written consent.

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

26 (5) If the minor continues to receive counseling

1 services or psychotherapy without the consent of a parent,  
2 guardian, or person in loco parentis beyond 8 sessions, the  
3 service provider shall evaluate, in consultation with his  
4 or her supervisor when possible, his or her determination  
5 under this subsection (a), and review the determination  
6 every 60 days until counseling services or psychotherapy  
7 ends or the minor reaches age 17. If it is determined  
8 appropriate to notify the parent, guardian, or person in  
9 loco parentis and the minor consents, the service provider  
10 shall proceed under paragraph (3) of subsection (a) of this  
11 Section.

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

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

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

25 (2) the failure to provide the counseling services or  
26 psychotherapy would be detrimental to the minor's

1 well-being;

2 (3) the minor has knowingly and voluntarily sought the  
3 counseling services or psychotherapy; and

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

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

1 and confidentiality protections under State law.

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

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

12 (405 ILCS 5/3-501 rep.)

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

15 Section 999. Effective date. This Act takes effect upon  
16 becoming law.".