



Sen. David Koehler

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FISCAL NOTE ACT
MAY APPLY

10000HB1443sam001

LRB100 03174 RLC 38778 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 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

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

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

22 (2) If the minor does not permit the service provider
23 to notify the parent, guardian, or person in loco parentis
24 for the purpose of consent after the eighth session the
25 service provider shall discontinue counseling services or
26 psychotherapy and shall not notify the parent, guardian, or

1 person in loco parentis about the counseling services or
2 psychotherapy.

3 (3) If the minor permits the service provider to notify
4 the parent, guardian, or person in loco parentis for the
5 purpose of consent, without discontinuing counseling
6 services or psychotherapy, the service provider shall make
7 reasonable attempts to obtain consent. The service
8 provider shall document each attempt to obtain consent in
9 the minor's clinical record. The service provider may
10 continue to provide counseling services or psychotherapy
11 without the consent of the minor's parent, guardian, or
12 person in loco parentis if:

13 (A) the service provider has made at least 2
14 unsuccessful attempts to contact the minor's parent,
15 guardian, or person in loco parentis to obtain consent;
16 and

17 (B) the service provider has obtained the minor's
18 written consent.

19 (4) If, after the eighth session, the service provider
20 of counseling services or psychotherapy determines that
21 obtaining consent would be detrimental to the minor's
22 well-being, the service provider shall consult with his or
23 her supervisor when possible to review and authorize the
24 determination under subsection (a) of this Section. The
25 service provider shall document the basis for the
26 determination in the minor's clinical record and may then

1 accept the minor's written consent to continue to provide
2 counseling services or psychotherapy without also
3 obtaining the consent of a parent, guardian, or person in
4 loco parentis.

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

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

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

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

4 (2) the failure to provide the counseling services or
5 psychotherapy would be detrimental to the minor's
6 well-being;

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

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

12 (a-2) The minor's parent, guardian, or person in loco
13 parentis shall not be informed of the counseling services or
14 psychotherapy without the written consent of the minor unless
15 the service provider believes the disclosure is necessary under
16 subsection (a) of this Section. If the facility director or
17 service provider intends to disclose the fact of counseling
18 services or psychotherapy, the minor shall be so informed and
19 if the minor chooses to discontinue counseling services or
20 psychotherapy after being informed of the decision of the
21 facility director or service provider to disclose the fact of
22 counseling services or psychotherapy to the parent, guardian,
23 or person in loco parentis, then the parent, guardian, or
24 person in loco parentis shall not be notified. Under the Mental
25 Health and Developmental Disabilities Confidentiality Act, the
26 facility director, his or her designee, or the service provider

1 shall not allow the minor's parent, guardian, or person in loco
2 parentis, upon request, to inspect or copy the minor's record
3 or any part of the record if the service provider finds that
4 there are compelling reasons for denying the access. Nothing in
5 this Section shall be interpreted to limit a minor's privacy
6 and confidentiality protections under State law.

7 (b) The minor's parent, guardian, or person in loco
8 parentis shall not be liable for the costs of outpatient
9 counseling services or psychotherapy which is received by the
10 minor without the consent of the minor's parent, guardian, or
11 person in loco parentis.

12 (c) Counseling services or psychotherapy provided under
13 this Section shall be provided in compliance with the
14 Professional Counselor and Clinical Professional Counselor
15 Licensing and Practice Act, the Clinical Social Work and Social
16 Work Practice Act, or the Clinical Psychologist Licensing Act.

17 (405 ILCS 5/3-501 rep.)

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

20 Section 999. Effective date. This Act takes effect upon
21 becoming law.".