



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3709

by Rep. Litesa E. Wallace

SYNOPSIS AS INTRODUCED:

405 ILCS 5/3-501

from Ch. 91 1/2, par. 3-501

Amends the Mental Health and Developmental Disabilities Code. Provides that counseling services or psychotherapy on an outpatient basis provided to a minor 12 years of age or older must be provided by, or under the supervision of, a licensed service provider. Provides that until the consent of the minor's parent, legal guardian, or person in loco parentis has been obtained, outpatient counseling or psychotherapy provided to a minor under the age of 18 (rather than 17) shall be initially limited to not more than 8 90-minute sessions (rather than 5 sessions, a session lasting not more than 45 minutes). Provides that after the eighth session, the service provider shall consider specified statutory factors throughout the therapeutic process to determine, through consultation with the minor, whether attempting to obtain the consent of a parent, guardian, or person in loco parentis would be detrimental to the minor's well-being. Provides that obtaining the consent of a parent, guardian, or person in loco parentis shall be presumed to be detrimental to the minor's well-being for counseling services or psychotherapy related to allegations of neglect, sexual abuse, or mental or physical abuse by the minor's parent, guardian, or person in loco parentis. Provides that the minor's parent, guardian or person in loco parentis shall not be liable for the out-of-pocket costs, including co-payments, deductibles, or co-insurance (rather than costs) for outpatient counseling or psychotherapy which is received by the minor without the consent of the minor's parent, guardian, or person in loco parentis.

LRB100 10929 RLC 21166 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 changing Section 3-501 as
6 follows:

7 (405 ILCS 5/3-501) (from Ch. 91 1/2, par. 3-501)

8 Sec. 3-501. Minor 12 years of age or older request to
9 receive counseling services or psychotherapy on an outpatient
10 basis.

11 (a) Any minor 12 years of age or older may request and
12 receive counseling services or psychotherapy on an outpatient
13 basis that are provided by, or under the supervision of, a
14 licensed service provider. The consent of his parent, guardian
15 or person in loco parentis shall not be initially necessary to
16 authorize outpatient counseling or psychotherapy. ~~The minor's~~
17 ~~parent, guardian or person in loco parentis shall not be~~
18 ~~informed of such counseling or psychotherapy without the~~
19 ~~consent of the minor unless the facility director believes such~~
20 ~~disclosure is necessary. If the facility director intends to~~
21 ~~disclose the fact of counseling or psychotherapy, the minor~~
22 ~~shall be so informed.~~ However, until the consent of the minor's
23 parent, guardian, or person in loco parentis has been obtained,

1 outpatient counseling or psychotherapy provided to a minor
2 under the age of 18 ~~17~~ shall be initially limited to not more
3 than 8 90-minute sessions ~~5 sessions, a session lasting not~~
4 ~~more than 45 minutes.~~ After the eighth session, the service
5 provider shall consider the factors contained in subsection
6 (a-1) of this Section throughout the therapeutic process to
7 determine, through consultation with the minor, whether
8 attempting to obtain the consent of a parent, guardian, or
9 person in loco parentis would be detrimental to the minor's
10 well-being. Obtaining the consent of a parent, guardian, or
11 person in loco parentis shall be presumed to be detrimental to
12 the minor's well-being for counseling services or
13 psychotherapy related to allegations of neglect, sexual abuse,
14 or mental or physical abuse by the minor's parent, guardian, or
15 person in loco parentis.

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.

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

25 (3) If the minor permits the service provider to notify
26 the parent, guardian, or person in loco parentis for the

1 purpose of consent, without discontinuing treatment, the
2 service provider shall attempt to obtain consent. The
3 service provider shall document each attempt to obtain
4 consent in the minor's clinical record. The service
5 provider may continue to provide counseling services or
6 psychotherapy if:

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

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

13 (4) If the service provider of counseling services or
14 psychotherapy determines after the eighth session that
15 obtaining consent would be detrimental to the minor's
16 well-being, the service provider shall document the basis
17 for the determination in the minor's clinical record and
18 may accept the minor's written consent to continue to
19 provide counseling services or psychotherapy without also
20 obtaining the consent of a parent, guardian, or person in
21 loco parentis.

22 (5) If the minor continues to receive counseling or
23 psychotherapy services without the consent of a parent,
24 guardian, or person in loco parentis beyond 8 sessions, the
25 service provider shall evaluate, in consultation with his
26 or her supervisor if possible, his or her determination

1 under this subsection (a), and review the determination
2 every 60 days until treatment ends or the minor reaches age
3 18.

4 (a-1) Each of the following factors must be present in
5 order for the service provider to find that obtaining the
6 consent of a parent, guardian, or person in loco parentis would
7 be detrimental to the minor's treatment:

8 (1) requiring the consent or notification of a parent
9 or guardian would cause the minor to reject the treatment;

10 (2) the failure to provide the treatment would be
11 detrimental to the minor's well-being;

12 (3) the minor has knowingly and voluntarily sought the
13 treatment; and

14 (4) in the opinion of the service provider, the minor
15 is mature enough to participate in treatment productively.

16 (a-2) The minor's parent, guardian, or person in loco
17 parentis shall not be informed of the counseling or
18 psychotherapy without the written consent of the minor unless
19 the service provider believes the disclosure is necessary. If
20 the facility director or service provider intends to disclose
21 the fact of counseling or psychotherapy, the minor shall be so
22 informed. Under the Mental Health and Developmental
23 Disabilities Confidentiality Act, the facility director, his
24 or her designee, or the service provider shall not allow the
25 minor's parent or guardian, upon request, to inspect or copy
26 the minor's record or any part of the record if the service

1 provider finds that there are compelling reasons for denying
2 the access. Nothing in this Section shall be interpreted to
3 limit a minor's privacy and confidentiality protections under
4 State law.

5 (b) The minor's parent, guardian or person in loco parentis
6 shall not be liable for the out-of-pocket costs, including
7 co-payments, deductibles, or co-insurance for ~~costs of~~
8 outpatient counseling or psychotherapy which is received by the
9 minor without the consent of the minor's parent, guardian, or
10 person in loco parentis.

11 (Source: P.A. 86-922.)