



Rep. Litesa E. Wallace

Filed: 3/31/2017

FISCAL NOTE ACT
MAY APPLY

10000HB3709ham002

LRB100 10929 RLC 24697 a

1 AMENDMENT TO HOUSE BILL 3709

2 AMENDMENT NO. _____. Amend House Bill 3709 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 Section 3-501 as
6 follows:

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

8 Sec. 3-501. Minors 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. The consent of the minor's ~~his~~ parent, guardian, or
14 person in loco parentis shall not be necessary to authorize
15 outpatient counseling services or psychotherapy. ~~The minor's~~
16 ~~parent, guardian or person in loco parentis shall not be~~

1 ~~informed of such counseling or psychotherapy without the~~
2 ~~consent of the minor unless the facility director believes such~~
3 ~~disclosure is necessary. If the facility director intends to~~
4 ~~disclose the fact of counseling or psychotherapy, the minor~~
5 ~~shall be so informed.~~ However, until the consent of the minor's
6 parent, guardian, or person in loco parentis has been obtained,
7 outpatient counseling services or psychotherapy provided to a
8 minor under the age of 17 shall be initially limited to not
9 more than 8 90-minute sessions ~~5 sessions, a session lasting~~
10 ~~not more than 45 minutes.~~ The service provider shall consider
11 the factors contained in subsection (a-1) of this Section
12 throughout the therapeutic process to determine, through
13 consultation with the minor, whether attempting to obtain the
14 consent of a parent, guardian, or person in loco parentis would
15 be detrimental to the minor's well-being. No later than the
16 eighth session, the service provider shall determine and share
17 with the minor the service provider's decision as described
18 below:

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

25 (2) If the minor does not permit the service provider
26 to notify the parent, guardian, or person in loco parentis

1 for the purpose of consent after the eighth session the
2 service provider shall discontinue counseling services or
3 psychotherapy and shall not notify the parent, guardian, or
4 person in loco parentis about the counseling services or
5 psychotherapy.

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

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

20 (B) the service provider has obtained the minor's
21 written consent.

22 (4) If, after the eighth session, the service provider
23 of counseling services or psychotherapy determines that
24 obtaining consent would be detrimental to the minor's
25 well-being, the service provider shall consult with his or
26 her supervisor when possible to review and authorize the

1 determination under subsection (a) of this Section. The
2 service provider shall document the basis for the
3 determination in the minor's clinical record and may then
4 accept the minor's written consent to continue to provide
5 counseling services or psychotherapy without also
6 obtaining the consent of a parent, guardian, or person in
7 loco parentis.

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

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

26 (a-1) Each of the following factors must be present in

1 order for the service provider to find that obtaining the
2 consent of a parent, guardian, or person in loco parentis would
3 be detrimental to the minor's well-being:

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

7 (2) the failure to provide the counseling services or
8 psychotherapy would be detrimental to the minor's
9 well-being;

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

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

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

1 person in loco parentis shall not be notified. Under the Mental
2 Health and Developmental Disabilities Confidentiality Act, the
3 facility director, his or her designee, or the service provider
4 shall not allow the minor's parent, guardian, or person in loco
5 parentis, upon request, to inspect or copy the minor's record
6 or any part of the record if the service provider finds that
7 there are compelling reasons for denying the access. Nothing in
8 this Section shall be interpreted to limit a minor's privacy
9 and confidentiality protections under State law.

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

15 (c) Counseling services or psychotherapy provided under
16 this Section shall be provided in compliance with the
17 Professional Counselor and Clinical Professional Counselor
18 Licensing and Practice Act or the Clinical Psychologist
19 Licensing Act.

20 (Source: P.A. 86-922.)".