



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3916

Introduced 2/10/2017, by Rep. Jehan Gordon-Booth

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7.5
735 ILCS 5/8-805 new

Amends the Code of Civil Procedure. Provides that, with exceptions, communications pertaining to peer support counseling sessions for emergency services or public safety personnel are privileged and confidential. Provides that any communication made by a participant or counselor in a peer support counseling session, and any oral or written information conveyed in a peer support counseling session, is not admissible in any judicial proceeding, administrative proceeding, arbitration proceeding, or other adjudicatory proceeding. Provides that communications and information shall not be disclosed by the participants in any judicial proceeding, administrative proceeding, arbitration proceeding, or other adjudicatory proceeding. Provides that any notes, records, or reports arising out of a peer support counseling session are exempt from the disclosure requirements of the Freedom of Information Act and makes a corresponding change in the Freedom of Information Act.

LRB100 03904 HEP 13909 b

1 AN ACT concerning civil law.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be exempt
9 from inspection and copying:

10 (a) All information determined to be confidential
11 under Section 4002 of the Technology Advancement and
12 Development Act.

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical
17 records received by the Experimental Organ Transplantation
18 Procedures Board and any and all documents or other records
19 prepared by the Experimental Organ Transplantation
20 Procedures Board or its staff relating to applications it
21 has received.

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible
2 disease or any information the disclosure of which is
3 restricted under the Illinois Sexually Transmissible
4 Disease Control Act.

5 (e) Information the disclosure of which is exempted
6 under Section 30 of the Radon Industry Licensing Act.

7 (f) Firm performance evaluations under Section 55 of
8 the Architectural, Engineering, and Land Surveying
9 Qualifications Based Selection Act.

10 (g) Information the disclosure of which is restricted
11 and exempted under Section 50 of the Illinois Prepaid
12 Tuition Act.

13 (h) Information the disclosure of which is exempted
14 under the State Officials and Employees Ethics Act, and
15 records of any lawfully created State or local inspector
16 general's office that would be exempt if created or
17 obtained by an Executive Inspector General's office under
18 that Act.

19 (i) Information contained in a local emergency energy
20 plan submitted to a municipality in accordance with a local
21 emergency energy plan ordinance that is adopted under
22 Section 11-21.5-5 of the Illinois Municipal Code.

23 (j) Information and data concerning the distribution
24 of surcharge moneys collected and remitted by wireless
25 carriers under the Wireless Emergency Telephone Safety
26 Act.

1 (k) Law enforcement officer identification information
2 or driver identification information compiled by a law
3 enforcement agency or the Department of Transportation
4 under Section 11-212 of the Illinois Vehicle Code.

5 (l) Records and information provided to a residential
6 health care facility resident sexual assault and death
7 review team or the Executive Council under the Abuse
8 Prevention Review Team Act.

9 (m) Information provided to the predatory lending
10 database created pursuant to Article 3 of the Residential
11 Real Property Disclosure Act, except to the extent
12 authorized under that Article.

13 (n) Defense budgets and petitions for certification of
14 compensation and expenses for court appointed trial
15 counsel as provided under Sections 10 and 15 of the Capital
16 Crimes Litigation Act. This subsection (n) shall apply
17 until the conclusion of the trial of the case, even if the
18 prosecution chooses not to pursue the death penalty prior
19 to trial or sentencing.

20 (o) Information that is prohibited from being
21 disclosed under Section 4 of the Illinois Health and
22 Hazardous Substances Registry Act.

23 (p) Security portions of system safety program plans,
24 investigation reports, surveys, schedules, lists, data, or
25 information compiled, collected, or prepared by or for the
26 Regional Transportation Authority under Section 2.11 of

1 the Regional Transportation Authority Act or the St. Clair
2 County Transit District under the Bi-State Transit Safety
3 Act.

4 (q) Information prohibited from being disclosed by the
5 Personnel Records Review Act.

6 (r) Information prohibited from being disclosed by the
7 Illinois School Student Records Act.

8 (s) Information the disclosure of which is restricted
9 under Section 5-108 of the Public Utilities Act.

10 (t) All identified or deidentified health information
11 in the form of health data or medical records contained in,
12 stored in, submitted to, transferred by, or released from
13 the Illinois Health Information Exchange, and identified
14 or deidentified health information in the form of health
15 data and medical records of the Illinois Health Information
16 Exchange in the possession of the Illinois Health
17 Information Exchange Authority due to its administration
18 of the Illinois Health Information Exchange. The terms
19 "identified" and "deidentified" shall be given the same
20 meaning as in the Health Insurance Portability and
21 Accountability Act of 1996, Public Law 104-191, or any
22 subsequent amendments thereto, and any regulations
23 promulgated thereunder.

24 (u) Records and information provided to an independent
25 team of experts under Brian's Law.

26 (v) Names and information of people who have applied

1 for or received Firearm Owner's Identification Cards under
2 the Firearm Owners Identification Card Act or applied for
3 or received a concealed carry license under the Firearm
4 Concealed Carry Act, unless otherwise authorized by the
5 Firearm Concealed Carry Act; and databases under the
6 Firearm Concealed Carry Act, records of the Concealed Carry
7 Licensing Review Board under the Firearm Concealed Carry
8 Act, and law enforcement agency objections under the
9 Firearm Concealed Carry Act.

10 (w) Personally identifiable information which is
11 exempted from disclosure under subsection (g) of Section
12 19.1 of the Toll Highway Act.

13 (x) Information which is exempted from disclosure
14 under Section 5-1014.3 of the Counties Code or Section
15 8-11-21 of the Illinois Municipal Code.

16 (y) Confidential information under the Adult
17 Protective Services Act and its predecessor enabling
18 statute, the Elder Abuse and Neglect Act, including
19 information about the identity and administrative finding
20 against any caregiver of a verified and substantiated
21 decision of abuse, neglect, or financial exploitation of an
22 eligible adult maintained in the Registry established
23 under Section 7.5 of the Adult Protective Services Act.

24 (z) Records and information provided to a fatality
25 review team or the Illinois Fatality Review Team Advisory
26 Council under Section 15 of the Adult Protective Services

1 Act.

2 (aa) Information which is exempted from disclosure
3 under Section 2.37 of the Wildlife Code.

4 (bb) Information which is or was prohibited from
5 disclosure by the Juvenile Court Act of 1987.

6 (cc) Recordings made under the Law Enforcement
7 Officer-Worn Body Camera Act, except to the extent
8 authorized under that Act.

9 (dd) Information that is prohibited from being
10 disclosed under Section 45 of the Condominium and Common
11 Interest Community Ombudsperson Act.

12 (ee) ~~(dd)~~ Information that is exempted from disclosure
13 under Section 30.1 of the Pharmacy Practice Act.

14 (ff) Information that is exempted from disclosure
15 under Section 8-805 of the Code of Civil Procedure.

16 (Source: P.A. 98-49, eff. 7-1-13; 98-63, eff. 7-9-13; 98-756,
17 eff. 7-16-14; 98-1039, eff. 8-25-14; 98-1045, eff. 8-25-14;
18 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352, eff. 1-1-16;
19 99-642, eff. 7-28-16; 99-776, eff. 8-12-16; 99-863, eff.
20 8-19-16; revised 9-1-16.)

21 Section 10. The Code of Civil Procedure is amended by
22 adding Section 8-805 as follows:

23 (735 ILCS 5/8-805 new)

24 Sec. 8-805. Statements made during peer counseling

1 sessions.

2 (a) As used in this Section:

3 "Emergency services provider" means any public employer
4 that employs persons to provide firefighting services.

5 "Emergency services personnel" means any employee of an
6 emergency services provider who is engaged in providing
7 firefighting services.

8 "Employee assistance program" means a program established
9 by a law enforcement agency or emergency services provider to
10 provide counseling or support services to employees of the law
11 enforcement agency or emergency services provider.

12 "Law enforcement agency" means an agency of the State or a
13 unit of local government which is vested by law or ordinance
14 with the duty to maintain public order and to enforce criminal
15 laws or ordinances and includes a campus police department.

16 "Public safety personnel" means a sheriff, deputy sheriff,
17 municipal police officer, State police officer, parole and
18 probation officer, corrections employee, certified reserve
19 officer, telecommunicator, or emergency medical dispatcher.

20 "Peer support counseling sessions" means critical incident
21 stress management sessions for public safety or emergency
22 services personnel who have been involved in emotionally
23 traumatic incidents by reason of their employment.

24 (b) Any communication made by a participant or counselor in
25 a peer support counseling session conducted by a law
26 enforcement agency or by an emergency services provider for

1 public safety personnel or emergency services personnel, and
2 any oral or written information conveyed in the peer support
3 counseling session, is confidential and may not be disclosed by
4 any person participating in the peer support counseling
5 session.

6 (c) Any communication relating to a peer support counseling
7 session made confidential under subsection (b) of this Section
8 that is made between counselors, between counselors and the
9 supervisors or staff of an employee assistance program, or
10 between the supervisors or staff of an employee assistance
11 program, is confidential and may not be disclosed.

12 (d) This Section applies only to peer support counseling
13 sessions conducted by an employee or other person who:

14 (1) has been designated by a law enforcement agency or
15 emergency services provider, or by an employee assistance
16 program, to act as a counselor; and

17 (2) has received training in counseling and in
18 providing emotional and moral support to public safety
19 personnel or emergency services personnel who have been
20 involved in emotionally traumatic incidents by reason of
21 their employment or who have been involved in emotionally
22 traumatic incidents outside of employment that affect
23 their abilities to execute their duties.

24 (e) This Section applies to all oral communications, notes,
25 records, and reports arising out of a peer support counseling
26 session. Any notes, records, or reports arising out of a peer

1 support counseling session are exempt from the disclosure
2 requirements of the Freedom of Information Act.

3 (f) Any communication made by a participant or counselor in
4 a peer support counseling session subject to this Section, and
5 any oral or written information conveyed in a peer support
6 counseling session subject to this Section, is not admissible
7 in any judicial proceeding, administrative proceeding,
8 arbitration proceeding, or other adjudicatory proceeding.
9 Communications and information made confidential under this
10 Section shall not be disclosed by the participants in any
11 judicial proceeding, administrative proceeding, arbitration
12 proceeding, or other adjudicatory proceeding. The limitations
13 on disclosure imposed by this Section include disclosure during
14 any discovery conducted as part of an adjudicatory proceeding.

15 (g) Nothing in this Section limits the discovery or
16 introduction in evidence of knowledge acquired by any public
17 safety personnel or emergency services personnel from
18 observation made during the course of employment, or material
19 or information acquired during the course of employment, that
20 is otherwise subject to discovery or introduction in evidence.

21 (h) This Section does not apply to:

22 (1) any threat of suicide or homicide made by a
23 participant in a peer support counseling session, or any
24 information conveyed in a peer support counseling session
25 relating to a threat of suicide or homicide;

26 (2) any information relating to abuse of children or of

1 the elderly, or other information that is required to be
2 reported by law; or

3 (3) any admission of criminal conduct.

4 (i) This Section does not prohibit any communications
5 between counselors who conduct peer support counseling
6 sessions, or any communications between counselors and the
7 supervisors or staff of an employee assistance program.