



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5113

Introduced 2/18/2020, by Rep. Deb Conroy

SYNOPSIS AS INTRODUCED:

New Act

Creates the Improving Access to State-operated Mental Health Facilities Act. Provides that the Department of Human Services, Division of Mental Health, shall provide education and training on an annual basis for all psychiatrists and clinical psychologists who provide care to forensic patients in State-operated mental health facilities utilizing nationally recognized best practices for determining when forensic patients are no longer, due to mental illness, reasonably expected to inflict serious physical harm upon themselves or others or when they may be safely restored to fitness to stand trial and subject to treatment on an outpatient basis under the Code of Criminal Procedure of 1963. Provides that the Division shall also provide training to psychiatrists and clinical psychologists concerning how to provide expert testimony in court hearings to determine whether forensic patients should be released. Provides that the Division shall provide education and training on an annual basis for all clinical social workers who provide care to forensic patient in State-operated mental health facilities concerning the types of community mental health services available in the community. Defines "forensic patient" as a person in an Illinois State-operated mental health facility who has been committed to the facility after having been found not guilty by reason of insanity or unfit to stand trial. Defines other terms. Effective immediately.

LRB101 17372 RLC 66777 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 1. Short title. This Act may be cited as the
5 Improving Access to State-operated Mental Health Facilities
6 Act.

7 Section 5. Definitions. In this Act:

8 "Clinical psychologist" has the meaning ascribed to it in
9 Section 1-103 of the Mental Health and Developmental
10 Disabilities Code.

11 "Clinical social worker" has the meaning ascribed to it in
12 Section 1-122.1 of the Mental Health and Developmental
13 Disabilities Code.

14 "Division" means the Department of Human Services,
15 Division of Mental Health.

16 "Forensic patient" means a person in an Illinois
17 State-operated mental health facility who has been committed to
18 the facility under Section 5-2-4 of the Unified Code of
19 Corrections or paragraph (2) of subsection (g) of Section
20 104-25 of the Code of Criminal Procedure of 1963.

21 "Patient" means a recipient of services under the Mental
22 Health and Developmental Disabilities Code.

23 "Psychiatrist" has the meaning ascribed to it in Section

1 1-121 of the Mental Health and Developmental Disabilities Code.

2 Section 10. Improving access to inpatient beds in
3 State-operated mental health facilities. In order to improve
4 the availability of inpatient beds for those who need inpatient
5 care in State-operated mental health facilities, the Division
6 shall adopt and implement medically appropriate policies,
7 procedures, and practices at each of the State-operated mental
8 health facilities to recommend and facilitate the diversion or
9 the conditional release of forensic patients to
10 community-based treatment when those patients are no longer,
11 due to mental illness, reasonably expected to inflict serious
12 physical harm upon themselves or others, or when they may be
13 safely restored to fitness to stand trial and subject to
14 treatment on an outpatient basis under Section 104-17 of the
15 Code of Criminal Procedure of 1963. Nothing in this Act shall
16 circumvent the judicial process that is required by law for a
17 forensic patient to be diverted or discharged from a
18 State-operated mental health facility to community-based
19 treatment.

20 Section 15. Education and training.

21 (a) The Division shall provide education and training on an
22 annual basis for all psychiatrists and clinical psychologists
23 who provide care to forensic patients in State-operated mental
24 health facilities utilizing nationally recognized best

1 practices for determining when forensic patients are no longer,
2 due to mental illness, reasonably expected to inflict serious
3 physical harm upon themselves or others or when they may be
4 safely restored to fitness on an outpatient basis pursuant to
5 Section 104-17 of the Code of Criminal Procedure of 1963. The
6 Division shall also provide training to psychiatrists and
7 clinical psychologists concerning how to provide expert
8 testimony in court hearings to determine whether forensic
9 patients should be released.

10 (b) The Division shall provide education and training on an
11 annual basis for all clinical social workers who provide care
12 to forensic patient in State-operated mental health facilities
13 concerning the types of community mental health services
14 available in the community.

15 (c) The education and training shall include regular
16 on-site presentations at State-operated mental health
17 facilities, webinars, and written materials. All training
18 materials shall be available to the public upon request.

19 Section 20. Supporting the transition of forensic patients
20 to community-based care. To incentivize community-based mental
21 health providers to accept forensic patients who are being
22 discharged from the State-operated mental health facilities or
23 the forensic population that is initially determined to be
24 appropriately served in community-based treatment, the
25 Division in consultation with the Department of Healthcare and

1 Family Services, shall develop a reimbursement mechanism such
2 as a supplemental or rate add-on payment, or other funding
3 source or mechanism for both Medicaid and non-Medicaid forensic
4 patients being diverted or discharged from State-operated
5 mental health facilities, to cover the additional provider
6 costs associated with court-mandated appearances, filings and
7 documentation for the forensic population. The payment
8 mechanism shall be established and implemented within one year
9 after the effective date of this Act. If federal approval is
10 required to implement this Section, the Department of
11 Healthcare and Family Services shall apply for federal approval
12 in sufficient time to meet the implementation timeline
13 established in this Section.

14 Section 25. Removing obstacles to inpatient care. The
15 Division shall develop policies and practices across all
16 State-operated mental health facilities to enable the
17 admission and treatment of individuals that have low-to
18 moderate-level medical conditions such as diabetes and other
19 medical conditions in addition to their mental illness,
20 consistent with the generally accepted standards within other
21 psychiatric hospital units across the State. These policies and
22 practices shall be put in place in each of the State-operated
23 mental health facilities within one year after the effective
24 date of this Act.

1 Section 30. Implementing the hospital presumptive
2 eligibility process. The Department of healthcare and Family
3 Services shall allow for hospital presumptive eligibility for
4 Medicaid enrollment for individuals presenting in hospital
5 emergency rooms who are in psychiatric crisis who meet the
6 federal criteria for such eligibility. If Illinois' 1115
7 Medicaid waiver that includes waiving the federal requirement
8 of hospital presumptive eligibility for Medicaid enrollment is
9 required to be amended to implement this Section, the
10 Department of Healthcare and Family Services shall amend the
11 waiver within 60 days after the effective date of this Act. The
12 Division and the Department of healthcare and Family Services,
13 with meaningful stakeholder input, shall develop a process by
14 which those individuals are linked to a community-based mental
15 health provider or other appropriate organization, to
16 facilitate enrollment in Medicaid immediately following
17 hospital or emergency room discharge and linkage to
18 community-based treatment.

19 Section 35. Annual reporting. The Division shall submit a
20 written report to the General Assembly on or before January 1,
21 2021 that includes a summary of the new policies, procedures
22 and practices required by Section 15 that will be put in place
23 at each facility by June 30, 2021 and its plan for
24 implementation, including the education of psychiatrists and
25 other hospital clinical staff that play a role in inpatient

1 care and the determination of when placement in the community
2 rather than a State-operated mental health facility is
3 appropriate under Article 104 of the Code of Criminal Procedure
4 of 1963 and Section 5-2-4 of the Unified Code of Corrections.
5 The Division shall submit an annual report to the General
6 Assembly every year thereafter, due on December 31st, outlining
7 the progress of the new policies and practices in reducing the
8 length of stay of forensic patients consistent with Article 104
9 of the Code of Criminal Procedure of 1963 and Section 5-2-4 of
10 the Unified Code of Corrections and the average number of beds
11 available annually in each of the State-operated mental health
12 facilities annually for non-forensic patients. Included in
13 each annual report shall be a progress report on the number of
14 clinicians that participated in the education and training
15 required by Section 15, the number of clinicians who have not
16 received the education and training, and the Division's ongoing
17 plan for implementation of the education and training
18 requirements under Section 15. The Division shall include an
19 evaluation of the impact the education and training for
20 clinicians has had on improving access to inpatient beds in the
21 State-operated mental health facilities in each annual report.
22 The Division shall submit a written report to the General
23 Assembly on or before January 1, 2021 with a summary of the new
24 policies and practices required under Section 25 to enable the
25 admission and treatment of individuals in State-operated
26 mental health facilities with psychiatric needs who also have

1 low-to moderate medical conditions.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.