



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1702

Introduced 2/15/2019, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

405 ILCS 5/1-101.3 new	
405 ILCS 5/2-108	from Ch. 91 1/2, par. 2-108
405 ILCS 5/2-109	from Ch. 91 1/2, par. 2-109
405 ILCS 5/3-602	from Ch. 91 1/2, par. 3-602
405 ILCS 5/3-603	from Ch. 91 1/2, par. 3-603
405 ILCS 5/3-610	from Ch. 91 1/2, par. 3-610
405 ILCS 5/3-702	from Ch. 91 1/2, par. 3-702
405 ILCS 5/3-703	from Ch. 91 1/2, par. 3-703
405 ILCS 5/3-752	
405 ILCS 5/3-753	
405 ILCS 5/3-807	from Ch. 91 1/2, par. 3-807

Amends the Mental Health and Developmental Disabilities Code. Permits an advanced practice psychiatric nurse to order restraints or seclusion for a recipient of treatment. Provides that an advanced practice psychiatric nurse may examine a respondent and execute a certificate which states that the respondent is subject to involuntary admission on an inpatient basis and requires immediate hospitalization. Defines "advanced practice psychiatric nurse" as a nurse who is licensed to practice as an advanced practice registered nurse under the Nurse Practice Act and has been certified by the American Nurses Credentialing Center as a psychiatric mental health clinical nurse specialist or a psychiatric mental health nurse practitioner.

LRB101 06196 RLC 51220 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 Sections 2-108, 2-109,
6 3-602, 3-603, 3-610, 3-702, 3-703, 3-752, 3-753, and 3-807 and
7 by adding Section 1-101.3 as follows:

8 (405 ILCS 5/1-101.3 new)

9 Sec. 1-101.3. Advanced practice psychiatric nurse.

10 "Advanced practice psychiatric nurse" means a nurse who is
11 licensed to practice as an advanced practice registered nurse
12 under Section 65-5 of the Nurse Practice Act and has been
13 certified by the American Nurses Credentialing Center as a
14 psychiatric mental health clinical nurse specialist or a
15 psychiatric mental health nurse practitioner.

16 (405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108)

17 Sec. 2-108. Use of restraint. Restraint may be used only as
18 a therapeutic measure to prevent a recipient from causing
19 physical harm to himself or physical abuse to others. Restraint
20 may only be applied by a person who has been trained in the
21 application of the particular type of restraint to be utilized.
22 In no event shall restraint be utilized to punish or discipline

1 a recipient, nor is restraint to be used as a convenience for
2 the staff.

3 (a) Except as provided in this Section, restraint shall be
4 employed only upon the written order of a physician, clinical
5 psychologist, clinical social worker, clinical professional
6 counselor, advanced practice psychiatric nurse, or registered
7 nurse with supervisory responsibilities. No restraint shall be
8 ordered unless the physician, clinical psychologist, clinical
9 social worker, clinical professional counselor, advanced
10 practice psychiatric nurse, or registered nurse with
11 supervisory responsibilities, after personally observing and
12 examining the recipient, is clinically satisfied that the use
13 of restraint is justified to prevent the recipient from causing
14 physical harm to himself or others. In no event may restraint
15 continue for longer than 2 hours unless within that time period
16 a nurse with supervisory responsibilities, advanced practice
17 psychiatric nurse, or a physician confirms, in writing,
18 following a personal examination of the recipient, that the
19 restraint does not pose an undue risk to the recipient's health
20 in light of the recipient's physical or medical condition. The
21 order shall state the events leading up to the need for
22 restraint and the purposes for which restraint is employed. The
23 order shall also state the length of time restraint is to be
24 employed and the clinical justification for that length of
25 time. No order for restraint shall be valid for more than 16
26 hours. If further restraint is required, a new order must be

1 issued pursuant to the requirements provided in this Section.

2 (b) In the event there is an emergency requiring the
3 immediate use of restraint, it may be ordered temporarily by a
4 qualified person only where a physician, clinical
5 psychologist, clinical social worker, clinical professional
6 counselor, advanced practice psychiatric nurse, or registered
7 nurse with supervisory responsibilities is not immediately
8 available. In that event, an order by a nurse, clinical
9 psychologist, clinical social worker, clinical professional
10 counselor, advanced practice psychiatric nurse, or physician
11 shall be obtained pursuant to the requirements of this Section
12 as quickly as possible, and the recipient shall be examined by
13 a physician or supervisory nurse within 2 hours after the
14 initial employment of the emergency restraint. Whoever orders
15 restraint in emergency situations shall document its necessity
16 and place that documentation in the recipient's record.

17 (c) The person who orders restraint shall inform the
18 facility director or his designee in writing of the use of
19 restraint within 24 hours.

20 (d) The facility director shall review all restraint orders
21 daily and shall inquire into the reasons for the orders for
22 restraint by any person who routinely orders them.

23 (e) Restraint may be employed during all or part of one 24
24 hour period, the period commencing with the initial application
25 of the restraint. However, once restraint has been employed
26 during one 24 hour period, it shall not be used again on the

1 same recipient during the next 48 hours without the prior
2 written authorization of the facility director.

3 (f) Restraint shall be employed in a humane and therapeutic
4 manner and the person being restrained shall be observed by a
5 qualified person as often as is clinically appropriate but in
6 no event less than once every 15 minutes. The qualified person
7 shall maintain a record of the observations. Specifically,
8 unless there is an immediate danger that the recipient will
9 physically harm himself or others, restraint shall be loosely
10 applied to permit freedom of movement. Further, the recipient
11 shall be permitted to have regular meals and toilet privileges
12 free from the restraint, except when freedom of action may
13 result in physical harm to the recipient or others.

14 (g) Every facility that employs restraint shall provide
15 training in the safe and humane application of each type of
16 restraint employed. The facility shall not authorize the use of
17 any type of restraint by an employee who has not received
18 training in the safe and humane application of that type of
19 restraint. Each facility in which restraint is used shall
20 maintain records detailing which employees have been trained
21 and are authorized to apply restraint, the date of the training
22 and the type of restraint that the employee was trained to use.

23 (h) Whenever restraint is imposed upon any recipient whose
24 primary mode of communication is sign language, the recipient
25 shall be permitted to have his hands free from restraint for
26 brief periods each hour, except when freedom may result in

1 physical harm to the recipient or others.

2 (i) A recipient who is restrained may only be secluded at
3 the same time pursuant to an explicit written authorization as
4 provided in Section 2-109 of this Code. Whenever a recipient is
5 restrained, a member of the facility staff shall remain with
6 the recipient at all times unless the recipient has been
7 secluded. A recipient who is restrained and secluded shall be
8 observed by a qualified person as often as is clinically
9 appropriate but in no event less than every 15 minutes.

10 (j) Whenever restraint is used, the recipient shall be
11 advised of his right, pursuant to Sections 2-200 and 2-201 of
12 this Code, to have any person of his choosing, including the
13 Guardianship and Advocacy Commission or the agency designated
14 pursuant to the Protection and Advocacy for Persons with
15 Developmental Disabilities Act notified of the restraint. A
16 recipient who is under guardianship may request that any person
17 of his choosing be notified of the restraint whether or not the
18 guardian approves of the notice. Whenever the Guardianship and
19 Advocacy Commission is notified that a recipient has been
20 restrained, it shall contact that recipient to determine the
21 circumstances of the restraint and whether further action is
22 warranted.

23 (Source: P.A. 98-137, eff. 8-2-13; 99-143, eff. 7-27-15.)

24 (405 ILCS 5/2-109) (from Ch. 91 1/2, par. 2-109)

25 Sec. 2-109. Seclusion. Seclusion may be used only as a

1 therapeutic measure to prevent a recipient from causing
2 physical harm to himself or physical abuse to others. In no
3 event shall seclusion be utilized to punish or discipline a
4 recipient, nor is seclusion to be used as a convenience for the
5 staff.

6 (a) Seclusion shall be employed only upon the written order
7 of a physician, clinical psychologist, clinical social worker,
8 clinical professional counselor, advanced practice psychiatric
9 nurse, or registered nurse with supervisory responsibilities.
10 No seclusion shall be ordered unless the physician, clinical
11 psychologist, clinical social worker, clinical professional
12 counselor, advanced practice psychiatric nurse, or registered
13 nurse with supervisory responsibilities, after personally
14 observing and examining the recipient, is clinically satisfied
15 that the use of seclusion is justified to prevent the recipient
16 from causing physical harm to himself or others. In no event
17 may seclusion continue for longer than 2 hours unless within
18 that time period a nurse with supervisory responsibilities,
19 advanced practice psychiatric nurse, or a physician confirms in
20 writing, following a personal examination of the recipient,
21 that the seclusion does not pose an undue risk to the
22 recipient's health in light of the recipient's physical or
23 medical condition. The order shall state the events leading up
24 to the need for seclusion and the purposes for which seclusion
25 is employed. The order shall also state the length of time
26 seclusion is to be employed and the clinical justification for

1 the length of time. No order for seclusion shall be valid for
2 more than 16 hours. If further seclusion is required, a new
3 order must be issued pursuant to the requirements provided in
4 this Section.

5 (b) The person who orders seclusion shall inform the
6 facility director or his designee in writing of the use of
7 seclusion within 24 hours.

8 (c) The facility director shall review all seclusion orders
9 daily and shall inquire into the reasons for the orders for
10 seclusion by any person who routinely orders them.

11 (d) Seclusion may be employed during all or part of one 16
12 hour period, that period commencing with the initial
13 application of the seclusion. However, once seclusion has been
14 employed during one 16 hour period, it shall not be used again
15 on the same recipient during the next 48 hours without the
16 prior written authorization of the facility director.

17 (e) The person who ordered the seclusion shall assign a
18 qualified person to observe the recipient at all times. A
19 recipient who is restrained and secluded shall be observed by a
20 qualified person as often as is clinically appropriate but in
21 no event less than once every 15 minutes.

22 (f) Safety precautions shall be followed to prevent
23 injuries to the recipient in the seclusion room. Seclusion
24 rooms shall be adequately lighted, heated, and furnished. If a
25 door is locked, someone with a key shall be in constant
26 attendance nearby.

1 (g) Whenever seclusion is used, the recipient shall be
2 advised of his right, pursuant to Sections 2-200 and 2-201 of
3 this Code, to have any person of his choosing, including the
4 Guardianship and Advocacy Commission notified of the
5 seclusion. A person who is under guardianship may request that
6 any person of his choosing be notified of the seclusion whether
7 or not the guardian approves of the notice. Whenever the
8 Guardianship and Advocacy Commission is notified that a
9 recipient has been secluded, it shall contact that recipient to
10 determine the circumstances of the seclusion and whether
11 further action is warranted.

12 (Source: P.A. 98-137, eff. 8-2-13.)

13 (405 ILCS 5/3-602) (from Ch. 91 1/2, par. 3-602)

14 Sec. 3-602. The petition shall be accompanied by a
15 certificate executed by a physician, qualified examiner,
16 psychiatrist, advanced practice psychiatric nurse, or clinical
17 psychologist which states that the respondent is subject to
18 involuntary admission on an inpatient basis and requires
19 immediate hospitalization. The certificate shall indicate that
20 the physician, qualified examiner, psychiatrist, advanced
21 practice psychiatric nurse, or clinical psychologist
22 personally examined the respondent not more than 72 hours prior
23 to admission. It shall also contain the physician's, qualified
24 examiner's, psychiatrist's, advanced practice psychiatric
25 nurse's, or clinical psychologist's clinical observations,

1 other factual information relied upon in reaching a diagnosis,
2 and a statement as to whether the respondent was advised of his
3 rights under Section 3-208.

4 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

5 (405 ILCS 5/3-603) (from Ch. 91 1/2, par. 3-603)

6 Sec. 3-603. (a) If no physician, qualified examiner,
7 psychiatrist, advanced practice psychiatric nurse, or clinical
8 psychologist is immediately available or it is not possible
9 after a diligent effort to obtain the certificate provided for
10 in Section 3-602, the respondent may be detained for
11 examination in a mental health facility upon presentation of
12 the petition alone pending the obtaining of such a certificate.

13 (b) In such instance the petition shall conform to the
14 requirements of Section 3-601 and further specify that:

15 1. the petitioner believes, as a result of his personal
16 observation, that the respondent is subject to involuntary
17 admission on an inpatient basis;

18 2. a diligent effort was made to obtain a certificate;

19 3. no physician, qualified examiner, psychiatrist, or
20 clinical psychologist could be found who has examined or
21 could examine the respondent; and

22 4. a diligent effort has been made to convince the
23 respondent to appear voluntarily for examination by a
24 physician, qualified examiner, psychiatrist, or clinical
25 psychologist, unless the petitioner reasonably believes

1 that effort would impose a risk of harm to the respondent
2 or others.

3 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

4 (405 ILCS 5/3-610) (from Ch. 91 1/2, par. 3-610)

5 Sec. 3-610. As soon as possible but not later than 24
6 hours, excluding Saturdays, Sundays and holidays, after
7 admission of a respondent pursuant to this Article, the
8 respondent shall be examined by a psychiatrist. The
9 psychiatrist may be a member of the staff of the facility but
10 shall not be the person who executed the first certificate. If
11 a certificate has already been completed by a psychiatrist
12 following the respondent's admission, the respondent shall be
13 examined by another psychiatrist or by a physician, clinical
14 psychologist, advanced practice psychiatric nurse, or
15 qualified examiner. If, as a result of this second examination,
16 a certificate is executed, the certificate shall be promptly
17 filed with the court. If the certificate states that the
18 respondent is subject to involuntary admission but not in need
19 of immediate hospitalization, the respondent may remain in his
20 or her place of residence pending a hearing on the petition
21 unless he or she voluntarily agrees to inpatient treatment. If
22 the respondent is not examined or if the psychiatrist,
23 physician, clinical psychologist, advanced practice
24 psychiatric nurse, or qualified examiner does not execute a
25 certificate pursuant to Section 3-602, the respondent shall be

1 released forthwith.

2 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

3 (405 ILCS 5/3-702) (from Ch. 91 1/2, par. 3-702)

4 Sec. 3-702. (a) The petition may be accompanied by the
5 certificate of a physician, qualified examiner, psychiatrist,
6 advanced practice psychiatric nurse, or clinical psychologist
7 which certifies that the respondent is subject to involuntary
8 admission on an inpatient basis and which contains the other
9 information specified in Section 3-602.

10 (b) Upon receipt of the petition either with or without a
11 certificate, if the court finds the documents are in order, it
12 may make such orders pursuant to Section 3-703 as are necessary
13 to provide for examination of the respondent. If the petition
14 is not accompanied by 2 certificates executed pursuant to
15 Section 3-703, the court may order the respondent to present
16 himself for examination at a time and place designated by the
17 court. If the petition is accompanied by 2 certificates
18 executed pursuant to Section 3-703 and the court finds the
19 documents are in order, it shall set the matter for hearing.

20 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

21 (405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

22 Sec. 3-703. If no certificate was filed, the respondent
23 shall be examined separately by a physician, or clinical
24 psychologist, advanced practice psychiatric nurse, or

1 qualified examiner and by a psychiatrist. If a certificate
2 executed by a psychiatrist was filed, the respondent shall be
3 examined by a physician, clinical psychologist, qualified
4 examiner, advanced practice psychiatric nurse, or
5 psychiatrist. If a certificate executed by a qualified
6 examiner, clinical psychologist, advanced practice psychiatric
7 nurse, or a physician who is not a psychiatrist was filed, the
8 respondent shall be examined by a psychiatrist. The examining
9 physician, clinical psychologist, qualified examiner, advanced
10 practice psychiatric nurse, or psychiatrist may interview by
11 telephone or in person any witnesses or other persons listed in
12 the petition for involuntary admission. If, as a result of an
13 examination, a certificate is executed, the certificate shall
14 be promptly filed with the court. If a certificate is executed,
15 the examining physician, clinical psychologist, qualified
16 examiner, advanced practice psychiatric nurse, or psychiatrist
17 may also submit for filing with the court a report in which his
18 findings are described in detail, and may rely upon such
19 findings for his opinion that the respondent is subject to
20 involuntary admission on an inpatient basis. Copies of the
21 certificates shall be made available to the attorneys for the
22 parties upon request prior to the hearing. A certificate
23 prepared in compliance with this Article shall state whether or
24 not the respondent is in need of immediate hospitalization.
25 However, if both the certificates state that the respondent is
26 not in need of immediate hospitalization, the respondent may

1 remain in his or her place of residence pending a hearing on
2 the petition unless he or she voluntarily agrees to inpatient
3 treatment.

4 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

5 (405 ILCS 5/3-752)

6 Sec. 3-752. Certificate.

7 (a) The petition may be accompanied by the certificate of a
8 physician, qualified examiner, psychiatrist, advanced practice
9 psychiatric nurse, or clinical psychologist which certifies
10 that the respondent is subject to involuntary admission on an
11 outpatient basis. The certificate shall indicate that the
12 physician, qualified examiner, advanced practice psychiatric
13 nurse, or clinical psychologist personally examined the
14 respondent not more than 72 hours prior to the completion of
15 the certificate. It shall also contain the physician's,
16 qualified examiner's, advanced practice psychiatric nurse's,
17 or clinical psychologist's clinical observations, other
18 factual information relied upon in reaching a diagnosis, and a
19 statement as to whether the respondent was advised of his or
20 her rights under Section 3-208.

21 (b) Upon receipt of the petition either with or without a
22 certificate, if the court finds the documents are in order, it
23 may make such orders pursuant to Section 3-753 as are necessary
24 to provide for examination of the respondent. If the petition
25 is not accompanied by 2 certificates executed pursuant to

1 Section 3-753, the court may order the respondent to present
2 himself or herself for examination at a time and place
3 designated by the court. If the petition is accompanied by 2
4 certificates executed pursuant to Section 3-753 and the court
5 finds the documents are in order, the court shall set the
6 matter for hearing.

7 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

8 (405 ILCS 5/3-753)

9 Sec. 3-753. Examination. If no certificate was filed, the
10 respondent shall be examined separately by a physician, ~~or~~
11 clinical psychologist, advanced practice psychiatric nurse, or
12 qualified examiner and by a psychiatrist. If a certificate
13 executed by a psychiatrist was filed, the respondent shall be
14 examined by a physician, clinical psychologist, qualified
15 examiner, advanced practice psychiatric nurse, or
16 psychiatrist. If a certificate executed by a qualified
17 examiner, clinical psychologist, advanced practice psychiatric
18 nurse, or a physician who is not a psychiatrist was filed, the
19 respondent shall be examined by a psychiatrist. The examining
20 physician, clinical psychologist, qualified examiner, advanced
21 practice psychiatric nurse, or psychiatrist may interview by
22 telephone or in person any witnesses or other persons listed in
23 the petition for involuntary admission. If, as a result of an
24 examination, a certificate is executed, the certificate shall
25 be promptly filed with the court. If a certificate is executed,

1 the examining physician, clinical psychologist, qualified
2 examiner, advanced practice psychiatric nurse, or psychiatrist
3 may also submit for filing with the court a report in which his
4 or her findings are described in detail, and may rely upon such
5 findings for his opinion that the respondent is subject to
6 involuntary admission. Copies of the certificates shall be made
7 available to the attorneys for the parties upon request prior
8 to the hearing.

9 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

10 (405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

11 Sec. 3-807. No respondent may be found subject to
12 involuntary admission on an inpatient or outpatient basis
13 unless at least one psychiatrist, clinical social worker,
14 clinical psychologist, advanced practice psychiatric nurse, or
15 qualified examiner who has examined the respondent testifies in
16 person at the hearing. The respondent may waive the requirement
17 of the testimony subject to the approval of the court.

18 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10;
19 97-121, eff. 7-14-11.)