



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3812

Introduced 2/14/2020, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

740 ILCS 110/9
740 ILCS 110/13

from Ch. 91 1/2, par. 809
from Ch. 91 1/2, par. 813

Amends the Mental Health and Developmental Disabilities Confidentiality Act. Removes language permitting disclosure of a record or communication without consent to an advocate consulted by a therapist or agency which provides services concerning the therapist's or agency's legal rights or duties in relation to the recipient and the services being provided. Provides that a notation of the information disclosed and the purpose of such disclosure or use is not required to be noted in the recipient's record in the case of a disclosure to an attorney consulted by a therapist or agency which provides services concerning the therapist's or agency's legal rights or duties in relation to the recipient and the services being provided.

LRB101 19929 LNS 69452 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 Mental Health and Developmental
5 Disabilities Confidentiality Act is amended by changing
6 Sections 9 and 13 as follows:

7 (740 ILCS 110/9) (from Ch. 91 1/2, par. 809)

8 Sec. 9. In the course of providing services and after the
9 conclusion of the provision of services, including for the
10 purposes of treatment and care coordination, a therapist,
11 integrated health system, or member of an interdisciplinary
12 team may use, disclose, or re-disclose a record or
13 communications without consent to:

14 (1) the therapist's supervisor, a consulting
15 therapist, members of a staff team participating in the
16 provision of services, a record custodian, a business
17 associate, an integrated health system, a member of an
18 interdisciplinary team, or a person acting under the
19 supervision and control of the therapist;

20 (2) persons conducting a peer review of the services
21 being provided;

22 (3) the Institute for Juvenile Research and the
23 Institute for the Study of Developmental Disabilities;

1 (4) an attorney ~~or advocate~~ consulted by a therapist or
2 agency which provides services concerning the therapist's
3 or agency's legal rights or duties in relation to the
4 recipient and the services being provided; and

5 (5) the Inspector General of the Department of Children
6 and Family Services when such records or communications are
7 relevant to a pending investigation authorized by Section
8 35.5 of the Children and Family Services Act where:

9 (A) the recipient was either (i) a parent, foster
10 parent, or caretaker who is an alleged perpetrator of
11 abuse or neglect or the subject of a dependency
12 investigation or (ii) a victim of alleged abuse or
13 neglect who was not a youth in care as defined in
14 Section 4d of the Children and Family Services Act, and

15 (B) available information demonstrates that the
16 mental health of the recipient was or should have been
17 an issue to the safety of the child.

18 In the course of providing services, a therapist,
19 integrated health system, or member of an interdisciplinary
20 team may disclose a record or communications without consent to
21 any department, agency, institution or facility which has
22 custody of the recipient pursuant to State statute or any court
23 order of commitment.

24 Information may be disclosed under this Section only to the
25 extent that knowledge of the record or communications is
26 essential to the purpose for which disclosure is made and only

1 after the recipient is informed that such disclosure may be
2 made. A person to whom disclosure is made under this Section
3 shall not redisclose any information except as provided in this
4 Act.

5 (Source: P.A. 100-159, eff. 8-18-17.)

6 (740 ILCS 110/13) (from Ch. 91 1/2, par. 813)

7 Sec. 13. Whenever disclosure of a record or communication
8 is made without consent pursuant to this Act, other than uses,
9 disclosures, or redisclosures permitted under paragraph (4) of
10 Section 9 and Sections 9.5, 9.8, 9.9, 9.10, and 9.11 of this
11 Act, or other than uses, disclosures, or redisclosures
12 permitted under Sections 9, 9.2, and 9.4 of this Act effected
13 by electronic transmission, or whenever a record is used
14 pursuant to Sections 7 and 8 of this Act, a notation of the
15 information disclosed and the purpose of such disclosure or use
16 shall be noted in the recipient's record together with the date
17 and the name of the person to whom disclosure was made or by
18 whom the record was used.

19 (Source: P.A. 98-378, eff. 8-16-13.)