



Rep. Lindsey LaPointe

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LRB102 15075 LNS 37217 a

1 AMENDMENT TO HOUSE BILL 3977

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3977, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the First  
6 Responders Behavioral Healthcare Bill of Rights Act.

7 Section 5. Purposes. The General Assembly recognizes the  
8 difficult nature of the job of first responder, including  
9 trauma endured by first responders in the performance of their  
10 duties. It is the intent of the General Assembly to ensure that  
11 first responders, including police, firefighters, emergency  
12 medical technicians, and public safety telecommunicators  
13 across this State, have full access to supportive and  
14 responsive behavioral health services and treatment. The  
15 General Assembly recognizes that these services should be  
16 responsive to the individual's needs and must be kept

1 confidential. The General Assembly recognizes that the  
2 administration and provision of these services both recognize  
3 and reduce the historical barrier of stigma and a lack of  
4 confidentiality that first responders face when attempting to  
5 access behavioral health services and treatment.

6 Section 10. Definitions. In this Act:

7 "Behavioral health" means mental health, health relating  
8 to substance use, or both.

9 "Behavioral healthcare" means services, treatment,  
10 medication, and other measures to overcome, mitigate, or  
11 prevent a behavioral health issue. Such services, treatment,  
12 medication, and other measures qualify as "behavioral  
13 healthcare" even if there is no formal diagnosis of a specific  
14 condition.

15 "Employee" includes a first responder employed by a unit  
16 of local government, school district, public or private  
17 hospital, board, or ambulance service.

18 "Employer" means a unit of local government, a school  
19 district, board, or a public or private hospital or ambulance  
20 service that employs first responders.

21 "First responder" means a law enforcement officer, fireman  
22 as defined in Article 6 of the Illinois Pension Code,  
23 emergency medical technician (EMT) as defined in Section 3.50  
24 of the Emergency Medical Services (EMS) Systems Act, or public  
25 safety telecommunicator as defined in Section 2 of the

1 Emergency Telephone Systems Act.

2 "Patient" means:

3 (1) a person who is admitted as an inpatient or  
4 resident of a public or private mental health facility for  
5 mental health treatment under Chapter III of the Mental  
6 Health and Developmental Disabilities Code as an informal  
7 admission, a voluntary admission, a minor admission, an  
8 emergency admission, or an involuntary admission, unless  
9 the treatment was solely for an alcohol abuse disorder; or

10 (2) a person who voluntarily or involuntarily receives  
11 mental health treatment as an outpatient or is otherwise  
12 provided services by a public or private mental health  
13 facility, and who poses a clear and present danger to  
14 oneself or to others.

15 "Record" means any record kept by a therapist or by an  
16 agency in the course of providing behavioral health services  
17 to a first responder concerning the first responder and the  
18 services provided. "Record" includes the personal notes of the  
19 therapist or agency. "Record" includes all records maintained  
20 by a court that have been created in connection with, in  
21 preparation for, or as a result of the filing of any petition  
22 or certificate under Chapter II, Chapter III, or Chapter IV of  
23 the Mental Health and Developmental Disabilities Code and  
24 includes the petitions, certificates, dispositional reports,  
25 treatment plans, and reports of diagnostic evaluations and of  
26 hearings under Article VIII of Chapter III or under Article V

1 of Chapter IV of that Code. "Record" does not include  
2 information that has been deidentified in accordance with  
3 HIPAA, as specified in 45 CFR 164.514. "Record" does not  
4 include a reference to the receipt of behavioral health  
5 services noted during a patient history and physical or other  
6 summary of care.

7 "Substance use" means the ingestion of one or more of the  
8 following: alcohol; caffeine; cannabis; hallucinogens;  
9 inhalants; opioids; sedatives, hypnotics, and anxiolytics;  
10 stimulants; tobacco; and other unknown intoxicating substances  
11 that the employee reasonably believes is interfering, or could  
12 interfere, either directly or indirectly, with the performance  
13 the employee's job duties.

14 Section 15. Rights to behavioral healthcare.

15 (a) First responders have the following rights:

16 (1) The right of full access to behavioral health  
17 services and treatment that are responsive to the needs of  
18 the individual and the professions of police, emergency  
19 medical technician (EMT), firefighter, and public safety  
20 telecommunicator.

21 (2) The right to seek, or access if required or  
22 requested, services and treatment for behavioral health  
23 needs without fear of repercussions by the employer or  
24 supervisor and without fear of reprisal.

25 (3) The right, in the course of seeking services and

1 treatment for behavioral health, that all records, notes,  
2 and conclusions by the treatment provider shall not be  
3 shared with an employer unless otherwise mandated by law.

4 (4) The right of an employee not to be compelled by the  
5 employer under the threat of discipline to release any  
6 records related to behavioral health.

7 (5) The right to have behavioral health records not be  
8 used in any disciplinary or other proceeding against the  
9 employee. If the employee waives the rights under this  
10 paragraph, the employee retains the right to set the scope  
11 of records that can be used in any disciplinary or other  
12 proceeding against the employee, including, but not  
13 limited to, treatment dates, facilities, actual or  
14 suspected diagnoses, and program completion status.

15 The employee's records from a fitness for duty exam  
16 related to the employee's behavioral health shall only be  
17 used in a determination or proceeding against the employee  
18 if the fitness for duty exam was ordered in connection  
19 with that determination or proceeding.

20 (6) The right of an employee to seek treatment in any  
21 geographic area without restrictions or limitations  
22 imposed by the employer.

23 (7) The right to have behavioral health services and  
24 treatment in a manner that reduces barriers to those  
25 services and treatment.

26 (8) The right to have the employer destroy and

1           disregard any behavioral health records that the employer  
2           obtained pursuant to the employee's unsuccessful pursuit  
3           of benefits under workers' compensation, pensions, and  
4           other programs.

5           If a first responder waives any rights under this  
6           subsection, the right shall only be deemed waived to the  
7           extent specified by the first responder.

8           (b) The rights guaranteed to first responders in  
9           subsection (a) are judicially enforceable. An aggrieved  
10          employee may, under the Civil Practice Law, bring an action  
11          for damages, attorney's fees, or injunctive relief against an  
12          employer for violating subsection (a).

13          (c) An employee who seeks behavioral health services or  
14          treatment because of the use of an illicit substance is not  
15          subject to discipline by his or her employer for the use of the  
16          illicit substance unless a criminal act was carried out as a  
17          consequence of using that illicit substance.

18          (d) An employer is responsible for the costs of any  
19          behavioral health services and treatment obtained by an  
20          employee under this Act."