

**102ND GENERAL ASSEMBLY****State of Illinois****2021 and 2022****SB2386**

Introduced 2/26/2021, by Sen. Laura Fine

**SYNOPSIS AS INTRODUCED:**

New Act

Creates the Access to Basic Mental Health Information Act. Provides definitions for "mental health facility", "physician", and "recipient". Provides that specified individuals are entitled, upon request, to obtain certain information regarding a recipient in a mental health facility if the individual declares that he or she is involved in the recipient's care or paying for the recipient's care and the individual meets specified requirements. Provides that an individual requesting information must submit to the mental health facility specified information. Provides that a mental health facility is required to receive information relevant to the recipient's mental health treatment. Provides that if the recipient requests the mental health record from the mental health facility, any information that was tendered to the mental health facility under a promise of confidentiality may be withheld from the recipient if disclosure of the information would be reasonably likely to reveal the source of the mental health information. Provides that whenever access or modification is requested, the request, the grounds for its acceptance or denial, and any action taken thereon shall be noted in the recipient's record. Provides that a mental health facility and its employees or agents are not liable for any action under the Act unless the release was made deliberately or the release constituted gross negligence. Provides that nothing in the Act constitutes an infringement on an individual's right to obtain mental health records of the recipient if the individual has another right to the mental health records by law, regulation, or consent of the recipient. Provides that the Act shall be liberally construed to allow receipt of mental health information to individuals entitled to a recipient's information. Provides that the Act supersedes the Mental Health and Developmental Disabilities Code and any other law that would be viewed to limit the access of an individual to a recipient's mental health records to the extent necessary to give the Act full implementation.

LRB102 10226 LNS 15550 b

1 AN ACT concerning mental 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 Access  
5 to Basic Mental Health Information Act.

6 Section 5. Definitions. As used in this Act:

7 "Mental health facility" has the meaning ascribed to that  
8 term in Section 1-114 of the Mental Health and Developmental  
9 Disabilities Code.

10 "Physician" has the meaning ascribed to that term in  
11 Section 1-120 of the Mental Health and Developmental  
12 Disabilities Code.

13 "Recipient" has the meaning ascribed to the term  
14 "recipient of services" in Section 1-123 of the Mental Health  
15 and Developmental Disabilities Code.

16 Section 10. Access to information.

17 (a) Each of the following individuals is entitled, upon  
18 request, to obtain information regarding a recipient in a  
19 mental health facility if the individual declares that he or  
20 she is involved in the recipient's care or paying for the  
21 recipient's care and the individual meets the requirements of  
22 subsection (b):

- 1 (1) the parent of a recipient;
- 2 (2) the adult sibling of a recipient;
- 3 (3) the adult child of a recipient;
- 4 (4) the spouse of a recipient; or
- 5 (5) the adult grandchild of the recipient.

6 (b) An individual listed in subsection (a) is entitled to  
7 receive information from the mental health facility if:

8 (1) the recipient expressly agrees to the  
9 communication as provided in Section 5 of the Mental  
10 Health and Developmental Disabilities Confidentiality Act;

11 (2) the recipient does not object to the communication  
12 when given the opportunity;

13 (3) the recipient is unconscious, lacks capacity due  
14 to intoxicants or temporary psychosis, and the physician  
15 at the mental health facility determines, in his or her  
16 professional judgment, that sharing the information would  
17 be in the recipient's best interest; or

18 (4) the physician infers, based on his or her  
19 professional judgment, that the recipient intends to share  
20 the mental health information with the individual.

21 (c) An individual requesting information must submit to  
22 the mental health facility proof of identification and list  
23 his or her name, address, phone number, and relationship to  
24 the recipient.

25 (d) The mental health facility shall provide the following  
26 information to an individual entitled to information under

1 subsection (a):

2 (1) whether the recipient is located at the mental  
3 health facility;

4 (2) current physical and mental condition;

5 (3) diagnosis;

6 (4) treatment needs;

7 (5) services provided;

8 (6) services needed, including medication, if any;

9 (7) discharge planning or continuity of care, if  
10 applicable; and

11 (8) if clinically appropriate, a physician's report as  
12 provided under the adult guardianship proceeding under  
13 Section 11a-9 of the Probate Act of 1975 or an Inpatient  
14 Certificate or Outpatient Certificate under Article VI,  
15 VII, or VII-A of Chapter III of the Mental Health and  
16 Developmental Disabilities Code.

17 (e) Regardless of any individual's ability to receive  
18 information from the mental health facility, a mental health  
19 facility is required to receive relevant information, either  
20 orally or in writing, regarding a recipient from the  
21 recipient's family and friends, including, but not limited, to  
22 past hospitalizations, medication, behaviors, and other  
23 information relevant to the recipient's mental health  
24 treatment. If the recipient requests the mental health record  
25 from the mental health facility, any information that was  
26 tendered to the mental health facility under a promise of

1 confidentiality may be withheld from the recipient if  
2 disclosure of the information would be reasonably likely to  
3 reveal the source of the mental health information.

4 (f) An individual entitled to information under this Act  
5 shall not use the information provided by the mental health  
6 facility regarding the recipient in any legal proceedings or  
7 in any other transaction to the individual's advantage and the  
8 information shall be excluded from evidence in said  
9 proceedings and may not be used in any other way, unless it is  
10 being used to assert or prove that a person is subject to an  
11 involuntary admission under Article VIII of Chapter III of the  
12 Mental Health and Developmental Disabilities Code or to prove  
13 that a person is a person with a disability in need of an adult  
14 guardianship proceeding under Article XIa of the Probate Act  
15 of 1975.

16 (g) Whenever access or modification is requested, the  
17 request, the grounds for its acceptance or denial, and any  
18 action taken thereon shall be noted in the recipient's record.

19 (h) A mental health facility and its employees or agents  
20 are not liable for any action under this Act, including, but  
21 not limited to, the release of information to a third party not  
22 in compliance with this Act, unless the release was made  
23 deliberately or the release constituted gross negligence.

24 (i) Nothing in this Act constitutes an infringement on an  
25 individual's right to obtain mental health records of the  
26 recipient if the individual has another right to the mental

1 health records by law, regulation, or consent of the  
2 recipient.

3 (j) This Act shall be liberally construed to allow receipt  
4 of mental health information to individuals entitled to a  
5 recipient's information. This Act supersedes Sections 2-101.1  
6 and 2-113 of the Mental Health and Developmental Disabilities  
7 Code and any other law that would be viewed to limit the access  
8 of an individual listed in subsection (a) to a recipient's  
9 mental health records to the extent necessary to give this Act  
10 full implementation.