

HB3728



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3728

Introduced 2/17/2023, by Rep. Jenn Ladisch Douglass

SYNOPSIS AS INTRODUCED:

405 ILCS 5/3-512 new

Amends the Mental Health and Developmental Disabilities Code. Provides for protections for a minor 11 years of age or younger who is admitted to a mental health facility for inpatient treatment. Provides a mental health facility that violates these provisions shall pay a civil penalty to the Department of Human Services.

LRB103 29801 SPS 56208 b

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 adding Section 3-512 as
6 follows:

7 (405 ILCS 5/3-512 new)

8 Sec. 3-512. Protections for minors 11 years of age or
9 younger admitted to a mental health facility.

10 (a) A minor 11 years of age or younger who is admitted to a
11 mental health facility for inpatient treatment shall not:

12 (1) Be asked to consent to any medical testing,
13 including, but not limited to, COVID-19 testing, blood
14 tests, urine tests, or any other test on or about his or
15 her person, other than an external temperature test,
16 unless prior written consent of the minor's parent or
17 guardian is obtained. If the tests are consented to by the
18 parent or guardian, he or she shall have the right to be
19 present or to speak to the minor by telephone, telehealth,
20 or video conference, unless the minor is in immediate
21 danger of death.

22 (2) Be threatened with sedation, guns, tasers,
23 isolation, or restraint if he or she is not posing a

1 physical threat to another person or property. The minor's
2 refusal to allow a test or take a medication prescribed at
3 the facility shall not be considered a physical threat to
4 another person or property. If the minor refuses to take a
5 life sustaining medication, such as insulin, a medical
6 professional shall be contacted to help the minor with
7 administration of the medication. Refusal by the minor's
8 parent or guardian to consent to a medical test, or the
9 minor's refusal to attend a group session, shall not be
10 considered a physical threat to another person or
11 property.

12 (3) Be threatened with force-feeding if he or she do
13 not want to eat the food provided if his or her refusal is
14 not related to an admission related to an eating disorder.

15 (4) Be placed in any groups sessions with minors 13
16 years of age or older.

17 (5) Be housed in a room with minors 13 years of age or
18 older.

19 (6) Be strip searched without the prior written
20 consent of the minor's parent or guardian and in the
21 presence of the parent or guardian. The written consent
22 shall be on a single page, with large and clear writing,
23 and include bold lettering to notify the parent or
24 guardian of the intent to strip search the minor and the
25 procedure by which it will be performed. The parent or
26 guardian may refuse to allow a strip search of the minor

1 and still have the minor admitted to the facility.

2 (7) Be denied clothes and comfort items from home,
3 including, a small blanket, stuffed animal, and photos of
4 loved ones.

5 (8) Be moved from an emergency room to an inpatient
6 facility by an ambulance service, unless:

7 (A) the minor's parent or guardian is not
8 available to walk the minor to the inpatient facility;

9 (B) the minor is physically unable or refuses to
10 walk to the inpatient facility; or

11 (C) the minor's parent or guardian does not have
12 transportation available to drive the minor to the
13 inpatient facility.

14 (b) A mental health facility that violates the provisions
15 of subsection (a) shall pay a civil penalty to the Department
16 in an amount determined by rule. All proceeds from the
17 collection of any civil penalty shall be used to provide care
18 for minors with mental health issues.