



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5817

Introduced 4/16/2024, by Rep. Dan Ugaste

#### SYNOPSIS AS INTRODUCED:

405 ILCS 5/6-103.3  
740 ILCS 110/12

from Ch. 91 1/2, par. 812

Amends the Mental Health and Developmental Disabilities Code. Provides that, if a person is determined to pose a clear and present danger to himself, herself, or to others by a physician, clinical psychologist, or qualified examiner, whether employed by the State, by any public or private mental health facility or part thereof, or by a law enforcement official or a school administrator, then the physician, clinical psychologist, or qualified examiner shall notify the Department of Human Services and a law enforcement official or school administrator shall notify the Illinois State Police and the appropriate local law enforcement agency (rather than shall notify the Illinois State Police), within 24 hours of making the determination that the person poses a clear and present danger. Amends the Mental Health and Developmental Disabilities Confidentiality Act. Provides that the Department of Human Services and all public or private hospitals and mental health facilities are required to furnish the Illinois State Police and the appropriate local law enforcement agency only such information as may be required for the sole purpose of determining whether an individual who may be or may have been a patient is disqualified because of that status from receiving or retaining a Firearm Owner's Identification Card or falls within the federal prohibitors under the Firearm Owners Identification Card Act, or falls within the federal prohibitors in the federal Gun Control Act of 1968.

LRB103 40318 RLC 72451 b

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 Section 6-103.3 as  
6 follows:

7 (405 ILCS 5/6-103.3)

8 Sec. 6-103.3. Clear and present danger; notice. If a  
9 person is determined to pose a clear and present danger to  
10 himself, herself, or to others by a physician, clinical  
11 psychologist, or qualified examiner, whether employed by the  
12 State, by any public or private mental health facility or part  
13 thereof, or by a law enforcement official or a school  
14 administrator, then the physician, clinical psychologist, or  
15 qualified examiner shall notify the Department of Human  
16 Services and a law enforcement official or school  
17 administrator shall notify the Illinois State Police and the  
18 appropriate local law enforcement agency, within 24 hours of  
19 making the determination that the person poses a clear and  
20 present danger. The Department of Human Services shall  
21 immediately update its records and information relating to  
22 mental health and developmental disabilities, and if  
23 appropriate, shall notify the Illinois State Police in a form

1 and manner prescribed by the Illinois State Police.  
2 Information disclosed under this Section shall remain  
3 privileged and confidential, and shall not be redisclosed,  
4 except as required under subsection (e) of Section 3.1 of the  
5 Firearm Owners Identification Card Act, nor used for any other  
6 purpose. The method of providing this information shall  
7 guarantee that the information is not released beyond that  
8 which is necessary for the purpose of this Section and shall be  
9 provided by rule by the Department of Human Services. The  
10 identity of the person reporting under this Section shall not  
11 be disclosed to the subject of the report. The physician,  
12 clinical psychologist, qualified examiner, law enforcement  
13 official, or school administrator making the determination and  
14 his or her employer shall not be held criminally, civilly, or  
15 professionally liable for making or not making the  
16 notification required under this Section, except for willful  
17 or wanton misconduct. This Section does not apply to a law  
18 enforcement official, if making the notification under this  
19 Section will interfere with an ongoing or pending criminal  
20 investigation.

21 For the purposes of this Section:

22 "Clear and present danger" has the meaning ascribed to  
23 it in Section 1.1 of the Firearm Owners Identification  
24 Card Act.

25 "Determined to pose a clear and present danger to  
26 himself, herself, or to others by a physician, clinical

1       psychologist, or qualified examiner" means in the  
2       professional opinion of the physician, clinical  
3       psychologist, or qualified examiner, a person poses a  
4       clear and present danger.

5       "School administrator" means the person required to  
6       report under the School Administrator Reporting of Mental  
7       Health Clear and Present Danger Determinations Law.

8       (Source: P.A. 102-538, eff. 8-20-21.)

9       Section 10. The Mental Health and Developmental  
10      Disabilities Confidentiality Act is amended by changing  
11      Section 12 as follows:

12      (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

13      Sec. 12. (a) If the United States Secret Service or the  
14      Illinois State Police requests information from a mental  
15      health or developmental disability facility, as defined in  
16      Section 1-107 and 1-114 of the Mental Health and Developmental  
17      Disabilities Code, relating to a specific recipient and the  
18      facility director determines that disclosure of such  
19      information may be necessary to protect the life of, or to  
20      prevent the infliction of great bodily harm to, a public  
21      official, or a person under the protection of the United  
22      States Secret Service, only the following information may be  
23      disclosed: the recipient's name, address, and age and the date  
24      of any admission to or discharge from a facility; and any

1 information which would indicate whether or not the recipient  
2 has a history of violence or presents a danger of violence to  
3 the person under protection. Any information so disclosed  
4 shall be used for investigative purposes only and shall not be  
5 publicly disseminated. Any person participating in good faith  
6 in the disclosure of such information in accordance with this  
7 provision shall have immunity from any liability, civil,  
8 criminal or otherwise, if such information is disclosed  
9 relying upon the representation of an officer of the United  
10 States Secret Service or the Illinois State Police that a  
11 person is under the protection of the United States Secret  
12 Service or is a public official.

13 For the purpose of this subsection (a), the term "public  
14 official" means the Governor, Lieutenant Governor, Attorney  
15 General, Secretary of State, State Comptroller, State  
16 Treasurer, member of the General Assembly, member of the  
17 United States Congress, Judge of the United States as defined  
18 in 28 U.S.C. 451, Justice of the United States as defined in 28  
19 U.S.C. 451, United States Magistrate Judge as defined in 28  
20 U.S.C. 639, Bankruptcy Judge appointed under 28 U.S.C. 152, or  
21 Supreme, Appellate, Circuit, or Associate Judge of the State  
22 of Illinois. The term shall also include the spouse, child or  
23 children of a public official.

24 (b) The Department of Human Services (acting as successor  
25 to the Department of Mental Health and Developmental  
26 Disabilities) and all public or private hospitals and mental

1 health facilities are required, as hereafter described in this  
2 subsection, to furnish the Illinois State Police and the  
3 appropriate local law enforcement agency only such information  
4 as may be required for the sole purpose of determining whether  
5 an individual who may be or may have been a patient is  
6 disqualified because of that status from receiving or  
7 retaining a Firearm Owner's Identification Card or falls  
8 within the federal prohibitors under subsection (e), (f), (g),  
9 (r), (s), or (t) of Section 8 of the Firearm Owners  
10 Identification Card Act, or falls within the federal  
11 prohibitors in 18 U.S.C. 922(g) and (n). All physicians,  
12 clinical psychologists, or qualified examiners at public or  
13 private mental health facilities or parts thereof as defined  
14 in this subsection shall, in the form and manner required by  
15 the Department, provide notice directly to the Department of  
16 Human Services, or to his or her employer who shall then report  
17 to the Department, within 24 hours after determining that a  
18 person poses a clear and present danger to himself, herself,  
19 or others, or within 7 days after a person 14 years or older is  
20 determined to be a person with a developmental disability by a  
21 physician, clinical psychologist, or qualified examiner as  
22 described in Section 1.1 of the Firearm Owners Identification  
23 Card Act. If a person is a patient as described in clause (1)  
24 of the definition of "patient" in Section 1.1 of the Firearm  
25 Owners Identification Card Act, this information shall be  
26 furnished within 7 days after admission to a public or private

1 hospital or mental health facility or the provision of  
2 services. Any such information disclosed under this subsection  
3 shall remain privileged and confidential, and shall not be  
4 redisclosed, except as required by subsection (e) of Section  
5 3.1 of the Firearm Owners Identification Card Act, nor  
6 utilized for any other purpose. The method of requiring the  
7 providing of such information shall guarantee that no  
8 information is released beyond what is necessary for this  
9 purpose. In addition, the information disclosed shall be  
10 provided by the Department within the time period established  
11 by Section 24-3 of the Criminal Code of 2012 regarding the  
12 delivery of firearms. The method used shall be sufficient to  
13 provide the necessary information within the prescribed time  
14 period, which may include periodically providing lists to the  
15 Department of Human Services or any public or private hospital  
16 or mental health facility of Firearm Owner's Identification  
17 Card applicants on which the Department or hospital shall  
18 indicate the identities of those individuals who are to its  
19 knowledge disqualified from having a Firearm Owner's  
20 Identification Card for reasons described herein. The  
21 Department may provide for a centralized source of information  
22 for the State on this subject under its jurisdiction. The  
23 identity of the person reporting under this subsection shall  
24 not be disclosed to the subject of the report. For the purposes  
25 of this subsection, the physician, clinical psychologist, or  
26 qualified examiner making the determination and his or her

1 employer shall not be held criminally, civilly, or  
2 professionally liable for making or not making the  
3 notification required under this subsection, except for  
4 willful or wanton misconduct.

5 Any person, institution, or agency, under this Act,  
6 participating in good faith in the reporting or disclosure of  
7 records and communications otherwise in accordance with this  
8 provision or with rules, regulations or guidelines issued by  
9 the Department shall have immunity from any liability, civil,  
10 criminal or otherwise, that might result by reason of the  
11 action. For the purpose of any proceeding, civil or criminal,  
12 arising out of a report or disclosure in accordance with this  
13 provision, the good faith of any person, institution, or  
14 agency so reporting or disclosing shall be presumed. The full  
15 extent of the immunity provided in this subsection (b) shall  
16 apply to any person, institution or agency that fails to make a  
17 report or disclosure in the good faith belief that the report  
18 or disclosure would violate federal regulations governing the  
19 confidentiality of alcohol and drug abuse patient records  
20 implementing 42 U.S.C. 290dd-3 and 290ee-3.

21 For purposes of this subsection (b) only, the following  
22 terms shall have the meaning prescribed:

23 (1) (Blank).

24 (1.3) "Clear and present danger" has the meaning as  
25 defined in Section 1.1 of the Firearm Owners  
26 Identification Card Act.



1           (1.5) "Person with a developmental disability" has the  
2 meaning as defined in Section 1.1 of the Firearm Owners  
3 Identification Card Act.

4           (2) "Patient" has the meaning as defined in Section  
5 1.1 of the Firearm Owners Identification Card Act.

6           (3) "Mental health facility" has the meaning as  
7 defined in Section 1.1 of the Firearm Owners  
8 Identification Card Act.

9           (c) Upon the request of a peace officer who takes a person  
10 into custody and transports such person to a mental health or  
11 developmental disability facility pursuant to Section 3-606 or  
12 4-404 of the Mental Health and Developmental Disabilities Code  
13 or who transports a person from such facility, a facility  
14 director shall furnish said peace officer the name, address,  
15 age and name of the nearest relative of the person transported  
16 to or from the mental health or developmental disability  
17 facility. In no case shall the facility director disclose to  
18 the peace officer any information relating to the diagnosis,  
19 treatment or evaluation of the person's mental or physical  
20 health.

21           For the purposes of this subsection (c), the terms "mental  
22 health or developmental disability facility", "peace officer"  
23 and "facility director" shall have the meanings ascribed to  
24 them in the Mental Health and Developmental Disabilities Code.

25           (d) Upon the request of a peace officer or prosecuting  
26 authority who is conducting a bona fide investigation of a

1 criminal offense, or attempting to apprehend a fugitive from  
2 justice, a facility director may disclose whether a person is  
3 present at the facility. Upon request of a peace officer or  
4 prosecuting authority who has a valid forcible felony warrant  
5 issued, a facility director shall disclose: (1) whether the  
6 person who is the subject of the warrant is present at the  
7 facility and (2) the date of that person's discharge or future  
8 discharge from the facility. The requesting peace officer or  
9 prosecuting authority must furnish a case number and the  
10 purpose of the investigation or an outstanding arrest warrant  
11 at the time of the request. Any person, institution, or agency  
12 participating in good faith in disclosing such information in  
13 accordance with this subsection (d) is immune from any  
14 liability, civil, criminal or otherwise, that might result by  
15 reason of the action.

16 (Source: P.A. 102-538, eff. 8-20-21.)