

SB2657



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2657

Introduced 1/10/2024, by Sen. Doris Turner

SYNOPSIS AS INTRODUCED:

740 ILCS 110/4

from Ch. 91 1/2, par. 804

Amends the Mental Health and Developmental Disabilities Confidentiality Act. Allows, upon request, an investigator or attorney employed by the Department of Financial and Professional Regulation investigating any provider of mental health or developmental disabilities services who is a licensee of the Department to inspect and copy a recipient's record or any part thereof. Provides that nothing in the Act prohibits the use of a recipient's records in an administrative proceeding conducted by the Department.

LRB103 35575 LNS 65647 b

A BILL FOR

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 Section 4 as follows:

7 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

8 Sec. 4. (a) The following persons shall be entitled, upon
9 request, to inspect and copy a recipient's record or any part
10 thereof:

11 (1) the parent or guardian of a recipient who is under
12 12 years of age;

13 (2) the recipient if he is 12 years of age or older;

14 (3) the parent or guardian of a recipient who is at
15 least 12 but under 18 years, if the recipient is informed
16 and does not object or if the therapist does not find that
17 there are compelling reasons for denying the access. The
18 parent or guardian who is denied access by either the
19 recipient or the therapist may petition a court for access
20 to the record. Nothing in this paragraph is intended to
21 prohibit the parent or guardian of a recipient who is at
22 least 12 but under 18 years from requesting and receiving
23 the following information: current physical and mental

1 condition, diagnosis, treatment needs, services provided,
2 and services needed, including medication, if any;

3 (3.5) the personal representative under HIPAA, 45 CFR
4 164.502(g), of a recipient, regardless of the age of the
5 recipient;

6 (4) the guardian of a recipient who is 18 years or
7 older;

8 (5) an attorney or guardian ad litem who represents a
9 minor 12 years of age or older in any judicial or
10 administrative proceeding, provided that the court or
11 administrative hearing officer has entered an order
12 granting the attorney this right;

13 (6) an agent appointed under a recipient's power of
14 attorney for health care or for property, when the power
15 of attorney authorizes the access;

16 (7) an attorney-in-fact appointed under the Mental
17 Health Treatment Preference Declaration Act; ~~or~~

18 (8) any person in whose care and custody the recipient
19 has been placed pursuant to Section 3-811 of the Mental
20 Health and Developmental Disabilities Code; or ~~or~~

21 (9) an investigator or attorney employed by the
22 Department of Financial and Professional Regulation, upon
23 the presentation of a Department of Financial and
24 Professional Regulation subpoena, investigating any
25 provider of mental health or developmental disabilities
26 services who is a licensee of the Department of Financial

1 and Professional Regulation. Nothing in this Act prohibits
2 the use of a recipient's records in an administrative
3 proceeding conducted by the Department of Financial and
4 Professional Regulation.

5 (b) Assistance in interpreting the record may be provided
6 without charge and shall be provided if the person inspecting
7 the record is under 18 years of age. However, access may in no
8 way be denied or limited if the person inspecting the record
9 refuses the assistance. A reasonable fee may be charged for
10 duplication of a record. However, when requested to do so in
11 writing by any indigent recipient, the custodian of the
12 records shall provide at no charge to the recipient, or to the
13 Guardianship and Advocacy Commission, the agency designated by
14 the Governor under Section 1 of the Protection and Advocacy
15 for Persons with Developmental Disabilities Act or to any
16 other not-for-profit agency whose primary purpose is to
17 provide free legal services or advocacy for the indigent and
18 who has received written authorization from the recipient
19 under Section 5 of this Act to receive his records, one copy of
20 any records in its possession whose disclosure is authorized
21 under this Act.

22 (c) Any person entitled to access to a record under this
23 Section may submit a written statement concerning any disputed
24 or new information, which statement shall be entered into the
25 record. Whenever any disputed part of a record is disclosed,
26 any submitted statement relating thereto shall accompany the

1 disclosed part. Additionally, any person entitled to access
2 may request modification of any part of the record which he
3 believes is incorrect or misleading. If the request is
4 refused, the person may seek a court order to compel
5 modification.

6 (d) Whenever access or modification is requested, the
7 request and any action taken thereon shall be noted in the
8 recipient's record.

9 (Source: P.A. 103-474, eff. 1-1-24.)