



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB1065

Introduced 2/11/2009, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

740 ILCS 110/12

from Ch. 91 1/2, par. 812

In provisions of the Mental Health and Developmental Disabilities Confidentiality Act authorizing a mental health or developmental disability facility to disclose certain information to the U.S. Secret Service or the Department of State Police when necessary to protect the life of, or to prevent bodily harm to, a public official, changes the definition of "public official" to include a Supreme, Appellate, Circuit, or Associate Judge of the State of Illinois. Effective immediately.

LRB096 03122 AJO 13138 b

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 12 as follows:

7 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

8 Sec. 12. (a) If the United States Secret Service or the
9 Department of State Police requests information from a mental
10 health or developmental disability facility, as defined in
11 Section 1-107 and 1-114 of the Mental Health and Developmental
12 Disabilities Code, relating to a specific recipient and the
13 facility director determines that disclosure of such
14 information may be necessary to protect the life of, or to
15 prevent the infliction of great bodily harm to, a public
16 official, or a person under the protection of the United States
17 Secret Service, only the following information may be
18 disclosed: the recipient's name, address, and age and the date
19 of any admission to or discharge from a facility; and any
20 information which would indicate whether or not the recipient
21 has a history of violence or presents a danger of violence to
22 the person under protection. Any information so disclosed shall
23 be used for investigative purposes only and shall not be

1 publicly disseminated. Any person participating in good faith
2 in the disclosure of such information in accordance with this
3 provision shall have immunity from any liability, civil,
4 criminal or otherwise, if such information is disclosed relying
5 upon the representation of an officer of the United States
6 Secret Service or the Department of State Police that a person
7 is under the protection of the United States Secret Service or
8 is a public official.

9 For the purpose of this subsection (a), the term "public
10 official" means the Governor, Lieutenant Governor, Attorney
11 General, Secretary of State, State Comptroller, State
12 Treasurer, ~~or~~ member of the General Assembly, and any Supreme,
13 Appellate, Circuit, or Associate Judge of the State of
14 Illinois. The term shall also include the spouse, child or
15 children of a public official.

16 (b) The Department of Human Services (acting as successor
17 to the Department of Mental Health and Developmental
18 Disabilities) and all public or private hospitals and mental
19 health facilities are required, as hereafter described in this
20 subsection, to furnish the Department of State Police only such
21 information as may be required for the sole purpose of
22 determining whether an individual who may be or may have been a
23 patient is disqualified because of that status from receiving
24 or retaining a Firearm Owner's Identification Card under
25 subsection (e) or (f) of Section 8 of the Firearm Owners
26 Identification Card Act or 18 U.S.C. 922(g) and (n). All public

1 or private hospitals and mental health facilities shall, in the
2 form and manner required by the Department, provide such
3 information as shall be necessary for the Department to comply
4 with the reporting requirements to the Department of State
5 Police. Such information shall be furnished within 7 days after
6 admission to a public or private hospital or mental health
7 facility or the provision of services to a patient described in
8 clause (2) of this subsection (b). Any such information
9 disclosed under this subsection shall remain privileged and
10 confidential, and shall not be redisclosed, except as required
11 by clause (e)(2) of Section 3.1 of the Firearm Owners
12 Identification Card Act, nor utilized for any other purpose.
13 The method of requiring the providing of such information shall
14 guarantee that no information is released beyond what is
15 necessary for this purpose. In addition, the information
16 disclosed shall be provided by the Department within the time
17 period established by Section 24-3 of the Criminal Code of 1961
18 regarding the delivery of firearms. The method used shall be
19 sufficient to provide the necessary information within the
20 prescribed time period, which may include periodically
21 providing lists to the Department of Human Services or any
22 public or private hospital or mental health facility of Firearm
23 Owner's Identification Card applicants on which the Department
24 or hospital shall indicate the identities of those individuals
25 who are to its knowledge disqualified from having a Firearm
26 Owner's Identification Card for reasons described herein. The

1 Department may provide for a centralized source of information
2 for the State on this subject under its jurisdiction.

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

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

21 (1) "Hospital" means only that type of institution
22 which is providing full-time residential facilities and
23 treatment.

24 (2) "Patient" shall include only: (i) a person who is
25 an in-patient or resident of any public or private hospital
26 or mental health facility or (ii) a person who is an

1 out-patient or provided services by a public or private
2 hospital or mental health facility whose mental condition
3 is of such a nature that it is manifested by violent,
4 suicidal, threatening, or assaultive behavior or reported
5 behavior, for which there is a reasonable belief by a
6 physician, clinical psychologist, or qualified examiner
7 that the condition poses a clear and present or imminent
8 danger to the patient, any other person or the community
9 meaning the patient's condition poses a clear and present
10 danger in accordance with subsection (f) of Section 8 of
11 the Firearm Owners Identification Card Act. The terms
12 physician, clinical psychologist, and qualified examiner
13 are defined in Sections 1-120, 1-103, and 1-122 of the
14 Mental Health and Developmental Disabilities Code.

15 (3) "Mental health facility" is defined by Section
16 1-114 of the Mental Health and Developmental Disabilities
17 Code.

18 (c) Upon the request of a peace officer who takes a person
19 into custody and transports such person to a mental health or
20 developmental disability facility pursuant to Section 3-606 or
21 4-404 of the Mental Health and Developmental Disabilities Code
22 or who transports a person from such facility, a facility
23 director shall furnish said peace officer the name, address,
24 age and name of the nearest relative of the person transported
25 to or from the mental health or developmental disability
26 facility. In no case shall the facility director disclose to

1 the peace officer any information relating to the diagnosis,
2 treatment or evaluation of the person's mental or physical
3 health.

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

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

25 (Source: P.A. 95-564, eff. 6-1-08.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.