

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 Sections 1-119, 3-600,
6 3-601, 3-602, 3-603, 3-606, 3-607, 3-610, 3-700, 3-701, 3-702,
7 3-703, 3-704, 3-801, 3-801.5, 3-802, 3-805, 3-807, 3-808,
8 3-809, 3-810, 3-811, 3-812, 3-813, 3-900, 3-901, and 3-902, by
9 changing the heading of Article VII of Chapter III, by adding
10 Section 1-119.1, and by adding Article VII-A to Chapter III as
11 follows:

12 (405 ILCS 5/1-119) (from Ch. 91 1/2, par. 1-119)

13 Sec. 1-119. "Person subject to involuntary admission on an
14 inpatient basis" means:

15 (1) A person with mental illness and who because of his
16 or her illness is reasonably expected to inflict serious
17 physical harm on herself or himself or another unless
18 treated on an inpatient basis ~~engage in dangerous conduct~~
19 ~~which may include threatening behavior or conduct that~~
20 ~~places that person or another individual in reasonable~~
21 ~~expectation of being harmed; or~~

22 (2) A person with mental illness and who because of his
23 or her illness is unable to provide for his or her basic

1 physical needs so as to guard himself or herself from
2 serious harm unless treated on an inpatient basis ~~without~~
3 ~~the assistance of family or outside help. ; or~~

4 (3) (Blank) ~~A person with mental illness who, because~~
5 ~~of the nature of his or her illness, is unable to~~
6 ~~understand his or her need for treatment and who, if not~~
7 ~~treated, is reasonably expected to suffer or continue to~~
8 ~~suffer mental deterioration or emotional deterioration, or~~
9 ~~both, to the point that the person is reasonably expected~~
10 ~~to engage in dangerous conduct.~~

11 In determining whether a person meets the criteria
12 specified in paragraph (1) or, (2), ~~or (3)~~, the court may
13 consider evidence of the person's repeated past pattern of
14 specific behavior and actions related to the person's illness.
15 Nothing in this Section shall be interpreted as requiring a
16 determination that the respondent has inflicted or threatened
17 serious physical harm on himself or another in the past, so
18 long as it is determined that the respondent is reasonably
19 expected to inflict harm in the future as provided in paragraph
20 (1). A person shall not be considered able to provide for his
21 or her basic physical needs as specified in paragraph (2) if he
22 or she is unable to provide for those needs without the
23 assistance of family or others and said family or others are
24 not able or willing to provide for those needs. Nothing in this
25 Section shall be interpreted to require any family member or
26 other person to provide assistance to a person with a mental

1 illness.

2 (Source: P.A. 95-602, eff. 6-1-08.)

3 (405 ILCS 5/1-119.1 new)

4 Sec. 1-119.1. "Person subject to involuntary admission on
5 an outpatient basis" means:

6 (1) A person who would meet the criteria for admission
7 on an inpatient basis as specified in Section 1-119 in the
8 absence of treatment on an outpatient basis and for whom
9 treatment on an outpatient basis can only be reasonably
10 ensured by a court order mandating such treatment; or

11 (2) A person with a mental illness which, if left
12 untreated, is reasonably expected to result in an increase
13 in the symptoms caused by the illness to the point that the
14 person would meet the criteria for commitment under Section
15 1-119, and whose mental illness has, on more than one
16 occasion in the past, caused that person to refuse needed
17 and appropriate mental health services in the community.

18 (405 ILCS 5/3-600) (from Ch. 91 1/2, par. 3-600)

19 Sec. 3-600. A person 18 years of age or older who is
20 subject to involuntary admission on an inpatient basis and in
21 need of immediate hospitalization may be admitted to a mental
22 health facility pursuant to this Article.

23 (Source: P.A. 80-1414.)

1 (405 ILCS 5/3-601) (from Ch. 91 1/2, par. 3-601)

2 Sec. 3-601. Involuntary admission; petition.

3 (a) When a person is asserted to be subject to involuntary
4 admission on an inpatient basis and in such a condition that
5 immediate hospitalization is necessary for the protection of
6 such person or others from physical harm, any person 18 years
7 of age or older may present a petition to the facility director
8 of a mental health facility in the county where the respondent
9 resides or is present. The petition may be prepared by the
10 facility director of the facility.

11 (b) The petition shall include all of the following:

12 1. A detailed statement of the reason for the assertion
13 that the respondent is subject to involuntary admission on
14 an inpatient basis, including the signs and symptoms of a
15 mental illness and a description of any acts, threats, or
16 other behavior or pattern of behavior supporting the
17 assertion and the time and place of their occurrence.

18 2. The name and address of the spouse, parent,
19 guardian, substitute decision maker, if any, and close
20 relative, or if none, the name and address of any known
21 friend of the respondent whom the petitioner has reason to
22 believe may know or have any of the other names and
23 addresses. If the petitioner is unable to supply any such
24 names and addresses, the petitioner shall state that
25 diligent inquiry was made to learn this information and
26 specify the steps taken.

1 3. The petitioner's relationship to the respondent and
2 a statement as to whether the petitioner has legal or
3 financial interest in the matter or is involved in
4 litigation with the respondent. If the petitioner has a
5 legal or financial interest in the matter or is involved in
6 litigation with the respondent, a statement of why the
7 petitioner believes it would not be practicable or possible
8 for someone else to be the petitioner.

9 4. The names, addresses and phone numbers of the
10 witnesses by which the facts asserted may be proved.

11 (c) Knowingly making a material false statement in the
12 petition is a Class A misdemeanor.

13 (Source: P.A. 91-726, eff. 6-2-00; 92-651, eff. 7-11-02.)

14 (405 ILCS 5/3-602) (from Ch. 91 1/2, par. 3-602)

15 Sec. 3-602. The petition shall be accompanied by a
16 certificate executed by a physician, qualified examiner,
17 psychiatrist, or clinical psychologist which states that the
18 respondent is subject to involuntary admission on an inpatient
19 basis and requires immediate hospitalization. The certificate
20 shall indicate that the physician, qualified examiner,
21 psychiatrist, or clinical psychologist personally examined the
22 respondent not more than 72 hours prior to admission. It shall
23 also contain the physician's, qualified examiner's,
24 psychiatrist's, or clinical psychologist's clinical
25 observations, other factual information relied upon in

1 reaching a diagnosis, and a statement as to whether the
2 respondent was advised of his rights under Section 3-208.

3 (Source: P.A. 80-1414.)

4 (405 ILCS 5/3-603) (from Ch. 91 1/2, par. 3-603)

5 Sec. 3-603. (a) If no physician, qualified examiner,
6 psychiatrist, or clinical psychologist is immediately
7 available or it is not possible after a diligent effort to
8 obtain the certificate provided for in Section 3-602, the
9 respondent may be detained for examination in a mental health
10 facility upon presentation of the petition alone pending the
11 obtaining of such a certificate.

12 (b) In such instance the petition shall conform to the
13 requirements of Section 3-601 and further specify that:

14 1. the petitioner believes, as a result of his personal
15 observation, that the respondent is subject to involuntary
16 admission on an inpatient basis;

17 2. a diligent effort was made to obtain a certificate;

18 3. no physician, qualified examiner, psychiatrist, or
19 clinical psychologist could be found who has examined or
20 could examine the respondent; and

21 4. a diligent effort has been made to convince the
22 respondent to appear voluntarily for examination by a
23 physician, qualified examiner, psychiatrist, or clinical
24 psychologist, unless the petitioner reasonably believes
25 that effort would impose a risk of harm to the respondent

1 or others.

2 (Source: P.A. 91-726, eff. 6-2-00; 91-837, eff. 6-16-00; 92-16,
3 eff. 6-28-01.)

4 (405 ILCS 5/3-606) (from Ch. 91 1/2, par. 3-606)

5 Sec. 3-606. A peace officer may take a person into custody
6 and transport him to a mental health facility when the peace
7 officer has reasonable grounds to believe that the person is
8 subject to involuntary admission on an inpatient basis and in
9 need of immediate hospitalization to protect such person or
10 others from physical harm. Upon arrival at the facility, the
11 peace officer may complete the petition under Section 3-601. If
12 the petition is not completed by the peace officer transporting
13 the person, the transporting officer's name, badge number, and
14 employer shall be included in the petition as a potential
15 witness as provided in Section 3-601 of this Chapter.

16 (Source: P.A. 94-202, eff. 7-12-05.)

17 (405 ILCS 5/3-607) (from Ch. 91 1/2, par. 3-607)

18 Sec. 3-607. Court ordered temporary detention and
19 examination. When, as a result of personal observation and
20 testimony in open court, any court has reasonable grounds to
21 believe that a person appearing before it is subject to
22 involuntary admission on an inpatient basis and in need of
23 immediate hospitalization to protect such person or others from
24 physical harm, the court may enter an order for the temporary

1 detention and examination of such person. The order shall set
2 forth in detail the facts which are the basis for its
3 conclusion. The court may order a peace officer to take the
4 person into custody and transport him to a mental health
5 facility. The person may be detained for examination for no
6 more than 24 hours to determine whether or not she or he is
7 subject to involuntary admission and in need of immediate
8 hospitalization. If a petition and certificate, ~~as provided in~~
9 ~~this Article,~~ are executed within the 24 hours, the person may
10 be admitted provided that the certificate states that the
11 person is both subject to involuntary admission and in need of
12 immediate hospitalization. If the certificate states that the
13 person is subject to involuntary admission but not in need of
14 immediate hospitalization, the person may remain in his or her
15 place of residence pending a hearing on the petition unless he
16 or she voluntarily agrees to inpatient treatment. ~~The and the~~
17 provisions of this Article shall apply to all petitions and
18 certificates executed pursuant to this Section. If no petition
19 or certificate is executed, the person shall be released.

20 (Source: P.A. 91-726, eff. 6-2-00.)

21 (405 ILCS 5/3-610) (from Ch. 91 1/2, par. 3-610)

22 Sec. 3-610. As soon as possible but not later than 24
23 hours, excluding Saturdays, Sundays and holidays, after
24 admission of a respondent pursuant to this Article, the
25 respondent shall be examined by a psychiatrist. The

1 psychiatrist may be a member of the staff of the facility but
2 shall not be the person who executed the first certificate. If
3 a certificate has already been completed by a psychiatrist
4 following the respondent's admission, the respondent shall be
5 examined by another psychiatrist or by a physician, clinical
6 psychologist, or qualified examiner. If, as a result of this
7 second examination, a certificate is executed, the certificate
8 shall be promptly filed with the court. If the certificate
9 states that the respondent is subject to involuntary admission
10 but not in need of immediate hospitalization, the respondent
11 may remain in his or her place of residence pending a hearing
12 on the petition unless he or she voluntarily agrees to
13 inpatient treatment. If the respondent is not examined or if
14 the psychiatrist, physician, clinical psychologist, or
15 qualified examiner does not execute a certificate pursuant to
16 Section 3-602, the respondent shall be released forthwith.

17 (Source: P.A. 80-1414.)

18 (405 ILCS 5/Ch. III Art. VII heading)

19 ARTICLE VII. ADMISSION ON AN INPATIENT BASIS BY COURT ORDER

20 (405 ILCS 5/3-700) (from Ch. 91 1/2, par. 3-700)

21 Sec. 3-700. A person 18 years of age or older who is
22 subject to involuntary admission on an inpatient basis may be
23 admitted to an inpatient ~~a~~ mental health facility upon court
24 order pursuant to this Article.

1 (Source: P.A. 80-1414.)

2 (405 ILCS 5/3-701) (from Ch. 91 1/2, par. 3-701)

3 Sec. 3-701. (a) Any person 18 years of age or older may
4 execute a petition asserting that another person is subject to
5 involuntary admission on an inpatient basis. The petition shall
6 be prepared pursuant to paragraph (b) of Section 3-601 and
7 shall be filed with the court in the county where the
8 respondent resides or is present.

9 (b) The court may inquire of the petitioner whether there
10 are reasonable grounds to believe that the facts stated in the
11 petition are true and whether the respondent is subject to
12 involuntary admission. The inquiry may proceed without notice
13 to the respondent only if the petitioner alleges facts showing
14 that an emergency exists such that immediate hospitalization is
15 necessary and the petitioner testifies before the court as to
16 the factual basis for the allegations.

17 (c) A petition for involuntary admission on an inpatient
18 basis may be combined with or accompanied by a petition for
19 involuntary admission on an outpatient basis under Article
20 VII-A.

21 (Source: P.A. 91-837, eff. 6-16-00.)

22 (405 ILCS 5/3-702) (from Ch. 91 1/2, par. 3-702)

23 Sec. 3-702. (a) The petition may be accompanied by the
24 certificate of a physician, qualified examiner, psychiatrist,

1 or clinical psychologist which certifies that the respondent is
2 subject to involuntary admission on an inpatient basis and
3 which contains the other information specified in Section
4 3-602.

5 (b) Upon receipt of the petition either with or without a
6 certificate, if the court finds the documents are in order, it
7 may make such orders pursuant to Section 3-703 as are necessary
8 to provide for examination of the respondent. If the petition
9 is not accompanied by 2 certificates executed pursuant to
10 Section 3-703, the court may order the respondent to present
11 himself for examination at a time and place designated by the
12 court. If the petition is accompanied by 2 certificates
13 executed pursuant to Section 3-703 and the court finds the
14 documents are in order, it shall set the matter for hearing.

15 (Source: P.A. 91-726, eff. 6-2-00.)

16 (405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

17 Sec. 3-703. If no certificate was filed, the respondent
18 shall be examined separately by a physician, or clinical
19 psychologist, or qualified examiner and by a psychiatrist. If a
20 certificate executed by a psychiatrist was filed, the
21 respondent shall be examined by a physician, clinical
22 psychologist, qualified examiner, or psychiatrist. If a
23 certificate executed by a qualified examiner, clinical
24 psychologist, or a physician who is not a psychiatrist was
25 filed, the respondent shall be examined by a psychiatrist. The

1 examining physician, clinical psychologist, qualified examiner
2 or psychiatrist may interview by telephone or in person any
3 witnesses or other persons listed in the petition for
4 involuntary admission. If, as a result of an examination, a
5 certificate is executed, the certificate shall be promptly
6 filed with the court. If a certificate is executed, the
7 examining physician, clinical psychologist, qualified examiner
8 or psychiatrist may also submit for filing with the court a
9 report in which his findings are described in detail, and may
10 rely upon such findings for his opinion that the respondent is
11 subject to involuntary admission on an inpatient basis. Copies
12 of the certificates shall be made available to the attorneys
13 for the parties upon request prior to the hearing. A
14 certificate prepared in compliance with this Article shall
15 state whether or not the respondent is in need of immediate
16 hospitalization. However, if both the certificates state that
17 the respondent is not in need of immediate hospitalization, the
18 respondent may remain in his or her place of residence pending
19 a hearing on the petition unless he or she voluntarily agrees
20 to inpatient treatment.

21 (Source: P.A. 85-558.)

22 (405 ILCS 5/3-704) (from Ch. 91 1/2, par. 3-704)

23 Sec. 3-704. Examination; detention.

24 (a) The respondent shall be permitted to remain in his or
25 her place of residence pending any examination. The respondent

1 may be accompanied by one or more of his or her relatives or
2 friends or by his or her attorney to the place of examination.
3 If, however, the court finds that it is necessary in order to
4 complete the examination the court may order that the person be
5 admitted to a mental health facility pending examination and
6 may order a peace officer or other person to transport the
7 person there. The examination shall be conducted at a local
8 mental health facility or hospital or, if possible, in the
9 respondent's own place of residence. No person may be detained
10 for examination under this Section for more than 24 hours. The
11 person shall be released upon completion of the examination
12 unless the physician, qualified examiner or clinical
13 psychologist executes a certificate stating that the person is
14 subject to involuntary admission on an inpatient basis and in
15 need of immediate hospitalization to protect such person or
16 others from physical harm. Upon admission under this Section
17 treatment may be given pursuant to Section 3-608.

18 (a-5) Whenever a respondent has been transported to a
19 mental health facility for an examination, the admitting
20 facility shall inquire, upon the respondent's arrival, whether
21 the respondent wishes any person or persons to be notified of
22 his or her detention at that facility. If the respondent does
23 wish to have any person or persons notified of his or her
24 detention at the facility, the facility must promptly make all
25 reasonable attempts to locate the individual identified by the
26 respondent, or at least 2 individuals identified by the

1 respondent if more than one has been identified, and notify
2 them of the respondent's detention at the facility for a
3 mandatory examination pursuant to court order.

4 (b) Not later than 24 hours, excluding Saturdays, Sundays,
5 and holidays, after admission under this Section, the
6 respondent shall be asked if he desires the petition and the
7 notice required under Section 3-206 sent to any other persons
8 and at least 2 such persons designated by the respondent shall
9 be sent the documents. At the time of his admission the
10 respondent shall be allowed to complete not fewer than 2
11 telephone calls to such persons as he chooses.

12 (Source: P.A. 91-726, eff. 6-2-00; 91-837, eff. 6-16-00; 92-16,
13 eff. 6-28-01.)

14 (405 ILCS 5/Ch. III Art. VII-A heading new)

15 ARTICLE VII-A. ADMISSION ON AN OUTPATIENT BASIS BY COURT ORDER

16 (405 ILCS 5/3-750 new)

17 Sec. 3-750. Involuntary admission on an outpatient basis. A
18 person 18 years of age or older who is subject to involuntary
19 admission on an outpatient basis may receive alternative
20 treatment in the community or may be placed in the care and
21 custody of a relative or other person upon court order pursuant
22 to this Article.

23 (405 ILCS 5/3-751 new)

1 Sec. 3-751. Involuntary admission; petition.

2 (a) Any person 18 years of age or older may execute a
3 petition asserting that another person is subject to
4 involuntary admission on an outpatient basis. The petition
5 shall be prepared pursuant to paragraph (b) of Section 3-601
6 and shall be filed with the court in the county where the
7 respondent resides or is present.

8 (b) The court may inquire of the petitioner whether there
9 are reasonable grounds to believe that the facts stated in the
10 petition are true and whether the respondent is subject to
11 involuntary admission on an outpatient basis.

12 (c) A petition for involuntary admission on an outpatient
13 basis may be combined with or accompanied by a petition for
14 involuntary admission on an inpatient basis under Article VII.

15 (405 ILCS 5/3-752 new)

16 Sec. 3-752. Certificate.

17 (a) The petition may be accompanied by the certificate of a
18 physician, qualified examiner, psychiatrist, or clinical
19 psychologist which certifies that the respondent is subject to
20 involuntary admission on an outpatient basis. The certificate
21 shall indicate that the physician, qualified examiner, or
22 clinical psychologist personally examined the respondent not
23 more than 72 hours prior to the completion of the certificate.
24 It shall also contain the physician's, qualified examiner's, or
25 clinical psychologist's clinical observations, other factual

1 information relied upon in reaching a diagnosis, and a
2 statement as to whether the respondent was advised of his or
3 her rights under Section 3-208.

4 (b) Upon receipt of the petition either with or without a
5 certificate, if the court finds the documents are in order, it
6 may make such orders pursuant to Section 3-753 as are necessary
7 to provide for examination of the respondent. If the petition
8 is not accompanied by 2 certificates executed pursuant to
9 Section 3-753, the court may order the respondent to present
10 himself or herself for examination at a time and place
11 designated by the court. If the petition is accompanied by 2
12 certificates executed pursuant to Section 3-753 and the court
13 finds the documents are in order, the court shall set the
14 matter for hearing.

15 (405 ILCS 5/3-753 new)

16 Sec. 3-753. Examination. If no certificate was filed, the
17 respondent shall be examined separately by a physician, or
18 clinical psychologist or qualified examiner and by a
19 psychiatrist. If a certificate executed by a psychiatrist was
20 filed, the respondent shall be examined by a physician,
21 clinical psychologist, qualified examiner, or psychiatrist. If
22 a certificate executed by a qualified examiner, clinical
23 psychologist, or a physician who is not a psychiatrist was
24 filed, the respondent shall be examined by a psychiatrist. The
25 examining physician, clinical psychologist, qualified examiner

1 or psychiatrist may interview by telephone or in person any
2 witnesses or other persons listed in the petition for
3 involuntary admission. If, as a result of an examination, a
4 certificate is executed, the certificate shall be promptly
5 filed with the court. If a certificate is executed, the
6 examining physician, clinical psychologist, qualified examiner
7 or psychiatrist may also submit for filing with the court a
8 report in which his or her findings are described in detail,
9 and may rely upon such findings for his opinion that the
10 respondent is subject to involuntary admission. Copies of the
11 certificates shall be made available to the attorneys for the
12 parties upon request prior to the hearing.

13 (405 ILCS 5/3-754 new)

14 Sec. 3-754. Detention.

15 (a) The respondent shall be permitted to remain in his or
16 her place of residence pending any examination. The respondent
17 may be accompanied by one or more of his or her relatives or
18 friends or by his or her attorney to the place of examination.
19 If, however, the respondent refuses to cooperate with an
20 examination on an outpatient basis, the court may order that
21 the person be admitted to a mental health facility solely for
22 the purpose of such examination and may order a peace officer
23 or other person to transport the person there. The examination
24 shall be conducted at a local mental health facility or
25 hospital or, if possible, in the respondent's own place of

1 residence. No person may be detained for examination under this
2 Section for more than 24 hours. The person shall be released
3 upon completion of the examination unless the physician,
4 qualified examiner or clinical psychologist executes a
5 certificate stating that the person is subject to involuntary
6 admission on an inpatient basis and in need of immediate
7 hospitalization to protect such person or others from physical
8 harm and a petition is filed pursuant to Section 3-701. Upon
9 admission under this Section treatment may be given pursuant to
10 Section 3-608. If the respondent is admitted on an inpatient
11 basis, the facility shall proceed pursuant to Article VII.

12 (b) Whenever a respondent has been transported to a mental
13 health facility for an examination, the admitting facility
14 shall inquire, upon the respondent's arrival, whether the
15 respondent wishes any person or persons to be notified of his
16 or her detention at that facility. If the respondent does wish
17 to have any person or persons notified of his or her detention
18 at the facility, the facility must promptly make all reasonable
19 attempts to locate the individual identified by the respondent,
20 or at least 2 individuals identified by the respondent if more
21 than one has been identified, and notify them of the
22 respondent's detention at the facility for a mandatory
23 examination pursuant to court order.

24 (405 ILCS 5/3-755 new)

25 Sec. 3-755. Notice. At least 36 hours before the time of

1 the examination fixed by the court, a copy of the petition, the
2 order for examination, and a statement of rights as provided in
3 Section 3-205 shall be personally delivered to the person and
4 shall be given personally or sent by mail to his or her
5 attorney and guardian, if any. If the respondent is admitted to
6 a mental health facility for examination under Section 3-754,
7 such notices may be delivered at the time of service of the
8 order for admission.

9 (405 ILCS 5/3-756 new)

10 Sec. 3-756. Court hearing. The court shall set a hearing to
11 be held within 15 days, excluding Saturdays, Sundays, and
12 holidays, after its receipt of the second certificate. The
13 court shall direct that notice of the time and place of hearing
14 be served upon the respondent, his or her attorney, and
15 guardian, if any, and his or her responsible relatives. The
16 respondent may remain at his residence pending the hearing. If,
17 however, the court finds it necessary, it may order a peace
18 officer or another person to have the respondent before the
19 court at the time and place set for hearing.

20 (405 ILCS 5/3-801) (from Ch. 91 1/2, par. 3-801)

21 Sec. 3-801. A respondent may request admission as an
22 informal or voluntary recipient at any time prior to an
23 adjudication that he is subject to involuntary admission on an
24 inpatient or outpatient basis. The facility director shall

1 approve such a request unless the facility director determines
2 that the respondent lacks the capacity to consent to informal
3 or voluntary admission or that informal or voluntary admission
4 is clinically inappropriate. The director shall not find that
5 voluntary admission is clinically inappropriate in the absence
6 of a documented history of the respondent's illness and
7 treatment demonstrating that the respondent is unlikely to
8 continue to receive needed treatment following release from
9 informal or voluntary admission and that an order for
10 involuntary admission on an outpatient basis ~~alternative~~
11 ~~treatment or for care and custody~~ is necessary in order to
12 ensure continuity of treatment outside a mental health
13 facility.

14 If the facility director approves such a request, the
15 petitioner shall be notified of the request and of his or her
16 right to object thereto, if the petitioner has requested such
17 notification on that individual recipient. The court may
18 dismiss the pending proceedings, but shall consider any
19 objection made by either the petitioner or the State's Attorney
20 and may require proof that such dismissal is in the best
21 interest of the respondent and of the public. If voluntary
22 admission is accepted and the petition is dismissed by the
23 court, notice shall be provided to the petitioner, orally and
24 in writing, of his or her right to receive notice of the
25 recipient's discharge pursuant to Section 3-902(d).

26 (Source: P.A. 96-570, eff. 1-1-10.)

1 (405 ILCS 5/3-801.5)

2 Sec. 3-801.5. Agreed order for admission on an outpatient
3 basis ~~alternative treatment or care and custody.~~

4 (a) At any time before the conclusion of the hearing and
5 the entry of the court's findings, a respondent may enter into
6 an agreement to be subject to an order for admission on an
7 outpatient basis ~~alternative treatment or care and custody~~ as
8 provided for in Sections 3-811, 3-812, 3-813, and 3-815 of this
9 Code, provided that:

10 (1) The court and the parties have been presented with
11 a written report pursuant to Section 3-810 of this Code
12 containing a recommendation for court-ordered admission on
13 an outpatient basis ~~alternative treatment or care and~~
14 ~~custody~~ and setting forth in detail the conditions for such
15 an order, and the court is satisfied that the proposal for
16 admission on an outpatient basis ~~alternative treatment or~~
17 ~~care and custody~~ is in the best interest of the respondent
18 and of the public.

19 (2) The court advises the respondent of the conditions
20 of the proposed order in open court and is satisfied that
21 the respondent understands and agrees to the conditions of
22 the proposed order for admission on an outpatient basis
23 ~~alternative treatment or care and custody.~~

24 (3) The proposed custodian is advised of the
25 recommendation for care and custody and agrees to abide by

1 the terms of the proposed order.

2 (4) No such order may require the respondent to be
3 hospitalized except as provided in subsection (b) of this
4 Section.

5 (5) No order may include as one of its conditions the
6 administration of psychotropic medication, unless the
7 court determines, based on the documented history of the
8 respondent's treatment and illness, that the respondent is
9 unlikely to continue to receive needed psychotropic
10 medication in the absence of such an order.

11 (b) An agreed order of care and custody entered pursuant to
12 this Section may grant the custodian the authority to admit a
13 respondent to a hospital if the respondent fails to comply with
14 the conditions of the agreed order. If necessary in order to
15 obtain the hospitalization of the respondent, the custodian may
16 apply to the court for an order authorizing an officer of the
17 peace to take the respondent into custody and transport the
18 respondent to the hospital specified in the agreed order. The
19 provisions of Section 3-605 of this Code shall govern the
20 transportation of the respondent to a mental health facility,
21 except to the extent that those provisions are inconsistent
22 with this Section. However, a person admitted to a hospital
23 pursuant to powers granted under an agreed order for care and
24 custody shall be treated as a voluntary recipient pursuant to
25 Article IV of this Chapter and shall be advised immediately of
26 his or her right to request a discharge pursuant to Section

1 3-403 of this Code.

2 (c) If the court has appointed counsel for the respondent
3 pursuant to Section 3-805 of this Code, that appointment shall
4 continue for the duration of any order entered under this
5 Section, and the respondent shall be represented by counsel in
6 any proceeding held pursuant to this Section.

7 (d) An order entered under this Section shall not
8 constitute a finding that the respondent is subject to
9 involuntary admission on an inpatient or outpatient basis.

10 (e) Nothing in this Section shall be deemed to create an
11 agency relationship between the respondent and any custodian
12 appointed pursuant to this Section.

13 (f) Notwithstanding any other provision of Illinois law, no
14 respondent may be cited for contempt for violating the terms
15 and conditions of his or her agreed order of care and custody.

16 (Source: P.A. 94-521, eff. 1-1-06.)

17 (405 ILCS 5/3-802) (from Ch. 91 1/2, par. 3-802)

18 Sec. 3-802. The respondent is entitled to a jury on the
19 question of whether he is subject to involuntary admission on
20 an inpatient or outpatient basis. The jury shall consist of 6
21 persons to be chosen in the same manner as are jurors in other
22 civil proceedings. A respondent is not entitled to a jury on
23 the question of whether psychotropic medication or
24 electroconvulsive therapy may be administered under Section
25 2-107.1.

1 (Source: P.A. 95-172, eff. 8-14-07.)

2 (405 ILCS 5/3-805) (from Ch. 91 1/2, par. 3-805)

3 Sec. 3-805. Every respondent alleged to be subject to
4 involuntary admission on an inpatient or outpatient basis shall
5 be represented by counsel. If the respondent is indigent or an
6 appearance has not been entered on his behalf at the time the
7 matter is set for hearing, the court shall appoint counsel for
8 him. A hearing shall not proceed when a respondent is not
9 represented by counsel unless, after conferring with counsel,
10 the respondent requests to represent himself and the court is
11 satisfied that the respondent has the capacity to make an
12 informed waiver of his right to counsel. Counsel shall be
13 allowed time for adequate preparation and shall not be
14 prevented from conferring with the respondent at reasonable
15 times nor from making an investigation of the matters in issue
16 and presenting such relevant evidence as he believes is
17 necessary.

18 1. If the court determines that the respondent is unable to
19 obtain counsel, the court shall appoint as counsel an attorney
20 employed by or under contract with the Guardianship and Mental
21 Health Advocacy Commission, if available.

22 2. If an attorney from the Guardianship and Mental Health
23 Advocacy Commission is not available, the court shall appoint
24 as counsel the public defender or, only if no public defender
25 is available, an attorney licensed to practice law in this

1 State.

2 3. Upon filing with the court of a verified statement of
3 legal services rendered by the private attorney appointed
4 pursuant to paragraph (2) of this Section, the court shall
5 determine a reasonable fee for such services. If the respondent
6 is unable to pay the fee, the court shall enter an order upon
7 the county to pay the entire fee or such amount as the
8 respondent is unable to pay.

9 (Source: P.A. 80-1414.)

10 (405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

11 Sec. 3-807. No respondent may be found subject to
12 involuntary admission on an inpatient or outpatient basis
13 unless at least one psychiatrist, clinical social worker, or
14 clinical psychologist who has examined him testifies in person
15 at the hearing. The respondent may waive the requirement of the
16 testimony subject to the approval of the court.

17 (Source: P.A. 87-530.)

18 (405 ILCS 5/3-808) (from Ch. 91 1/2, par. 3-808)

19 Sec. 3-808. No respondent may be found subject to
20 involuntary admission on an inpatient or outpatient basis
21 unless that finding has been established by clear and
22 convincing evidence.

23 (Source: P.A. 80-1414.)

1 (405 ILCS 5/3-809) (from Ch. 91 1/2, par. 3-809)

2 Sec. 3-809. If the respondent is not found subject to
3 involuntary admission on an inpatient or outpatient basis, the
4 court shall dismiss the petition and order the respondent
5 discharged. If the respondent is found subject to involuntary
6 admission on an inpatient or outpatient basis, the court shall
7 enter an order so specifying. If the court is not satisfied
8 with the verdict of the jury finding the respondent subject to
9 involuntary admission on an inpatient or outpatient basis, it
10 may set aside such verdict and order the respondent discharged
11 or it may order another hearing.

12 (Source: P.A. 80-1414.)

13 (405 ILCS 5/3-810) (from Ch. 91 1/2, par. 3-810)

14 Sec. 3-810. Before disposition is determined, the facility
15 director or such other person as the court may direct shall
16 prepare a written report including information on the
17 appropriateness and availability of alternative treatment
18 settings, a social investigation of the respondent, a
19 preliminary treatment plan, and any other information which the
20 court may order. The treatment plan shall describe the
21 respondent's problems and needs, the treatment goals, the
22 proposed treatment methods, and a projected timetable for their
23 attainment. If the respondent is found subject to involuntary
24 admission on an inpatient or outpatient basis, the court shall
25 consider the report in determining an appropriate disposition.

1 (Source: P.A. 91-726, eff. 6-2-00.)

2 (405 ILCS 5/3-811) (from Ch. 91 1/2, par. 3-811)

3 Sec. 3-811. Involuntary admission; alternative mental
4 health facilities.

5 (a) If any person is found subject to involuntary admission
6 on an inpatient basis, the court shall consider alternative
7 mental health facilities which are appropriate for and
8 available to the respondent, including but not limited to
9 hospitalization. The court may order the respondent to undergo
10 a program of hospitalization in a mental health facility
11 designated by the Department, in a licensed private hospital or
12 private mental health facility if it agrees, or in a facility
13 of the United States Veterans Administration if it agrees. If
14 any person is found subject to involuntary admission on an
15 outpatient basis, ~~or~~ the court may order the respondent to
16 undergo a program of alternative treatment; or the court may
17 place the respondent in the care and custody of a relative or
18 other person willing and able to properly care for him or her.
19 The court shall order the least restrictive alternative for
20 treatment which is appropriate.

21 (b) Whenever a person is found subject to involuntary
22 admission on an inpatient or outpatient basis, notice shall be
23 provided to the petitioner, orally and in writing, of his or
24 her right to receive notice of the recipient's discharge
25 pursuant to Section 3-902(d).

1 (Source: P.A. 96-570, eff. 1-1-10.)

2 (405 ILCS 5/3-812) (from Ch. 91 1/2, par. 3-812)

3 Sec. 3-812. Court ordered admission on an outpatient basis
4 ~~alternative treatment~~; modification; revocation.

5 (a) If a respondent is found subject to involuntary
6 admission on an outpatient basis, the court may issue an order:
7 (i) placing the respondent in the care and custody of a
8 relative or other person willing and able to properly care for
9 him or her; or (ii) committing the respondent to alternative
10 treatment at a community mental health provider.

11 (b) An order placing the respondent in the care and custody
12 of a relative or other person shall specify the powers and
13 duties of the custodian. An order of care and custody entered
14 pursuant to this Section may grant the custodian the authority
15 to admit a respondent to a hospital if the respondent fails to
16 comply with the conditions of the order. If necessary in order
17 to obtain the hospitalization of the respondent, the custodian
18 may apply to the court for an order authorizing an officer of
19 the peace to take the respondent into custody and transport the
20 respondent to the hospital specified in the agreed order. The
21 provisions of Section 3-605 shall govern the transportation of
22 the respondent to a mental health facility, except to the
23 extent that those provisions are inconsistent with this
24 Section. No person admitted to a hospital pursuant to this
25 subsection shall be detained for longer than 24 hours,

1 excluding Saturdays, Sundays, and holidays, unless, within
2 that period, a petition for involuntary admission on an
3 inpatient basis and a certificate supporting such petition have
4 been filed as provided in Section 3-611.

5 (c) ~~(a)~~ Alternative treatment shall not be ordered unless
6 the program being considered is capable of providing adequate
7 and humane treatment in the least restrictive setting which is
8 appropriate to the respondent's condition. The court shall have
9 continuing authority to modify an order for alternative
10 treatment if the recipient fails to comply with the order or is
11 otherwise found unsuitable for alternative treatment. Prior to
12 modifying such an order, the court shall receive a report from
13 the facility director of the program specifying why the
14 alternative treatment is unsuitable. The recipient shall be
15 notified and given an opportunity to respond when modification
16 of the order for alternative treatment is considered. If the
17 court determines that the respondent has violated the order for
18 alternative treatment in the community or that alternative
19 treatment in the community will no longer provide adequate
20 assurances for the safety of the respondent or others, the
21 court may revoke the order for alternative treatment in the
22 community and may order a peace officer to take the recipient
23 into custody and transport him to an inpatient mental health
24 facility. The provisions of Section 3-605 shall govern the
25 transportation of the respondent to a mental health facility,
26 except to the extent that those provisions are inconsistent

1 with this Section. No person admitted to a hospital pursuant to
2 this subsection shall be detained for longer than 24 hours,
3 excluding Saturdays, Sundays, and holidays, unless, within
4 that period, a petition for involuntary admission on an
5 inpatient basis and a certificate supporting such petition have
6 been filed as provided in Section 3-611.

7 ~~(b) If the court revokes an order for alternative treatment~~
8 ~~and orders a recipient hospitalized, it may order a peace~~
9 ~~officer to take the recipient into custody and transport him to~~
10 ~~the facility. The court may order the recipient to undergo a~~
11 ~~program of hospitalization at a licensed private hospital or~~
12 ~~private mental health facility, or a facility of the United~~
13 ~~States Veterans Administration, if such private or Veterans~~
14 ~~Administration facility agrees to such placement, or at a~~
15 ~~mental health facility designated by the Department.~~

16 (Source: P.A. 91-726, eff. 6-2-00.)

17 (405 ILCS 5/3-813) (from Ch. 91 1/2, par. 3-813)

18 Sec. 3-813. (a) An initial order for commitment on an
19 inpatient basis ~~hospitalization~~ shall be for a period not to
20 exceed 90 days. Prior to the expiration of the initial order if
21 the facility director believes that the recipient continues to
22 be subject to involuntary admission on an inpatient or
23 outpatient basis, a new petition and 2 new certificates may be
24 filed with the court. If a petition is filed, the facility
25 director shall file with the court a current treatment plan

1 which includes an evaluation of the recipient's progress and
2 the extent to which he is benefiting from treatment. If no
3 petition is filed prior to the expiration of the initial order,
4 the recipient shall be discharged. Following a hearing, the
5 court may order a second period of commitment on an inpatient
6 basis ~~hospitalization~~ not to exceed 90 days only if it finds
7 that the recipient continues to be subject to involuntary
8 admission on an inpatient basis. If, following a hearing, the
9 court determines that the respondent is subject to involuntary
10 admission on an outpatient basis as provided in Section 3-812,
11 the court may order the respondent committed on an outpatient
12 basis for a period not to exceed 180 days.

13 (a-1) An initial order of commitment on an outpatient basis
14 shall be for a period not to exceed 180 days. Prior to the
15 expiration of the initial order, if the facility director or
16 the custodian believes that the recipient continues to be
17 subject to involuntary admission on an outpatient basis, a new
18 petition and 2 new certificates may be filed with the court. If
19 a petition is filed, the facility director or the custodian
20 shall file with the court a current treatment plan which
21 includes an evaluation of the recipient's progress and the
22 extent to which he or she is benefiting from treatment. If no
23 petition is filed prior to the expiration of the initial order,
24 the recipient shall be discharged. Following a hearing, the
25 court may order a second period of commitment on an outpatient
26 basis not to exceed 180 days only if it finds that the

1 recipient continues to be subject to involuntary admission on
2 an outpatient basis.

3 (b) Additional 180 day periods of inpatient or outpatient
4 commitment ~~treatment~~ may be sought pursuant to the procedures
5 set out in this Section for so long as the recipient continues
6 to meet the standard for such commitment ~~be subject to~~
7 ~~involuntary admission~~. The provisions of this chapter which
8 apply whenever an initial order is sought shall apply whenever
9 an additional period of inpatient or outpatient commitment
10 ~~treatment~~ is sought.

11 (Source: P.A. 91-787, eff. 1-1-01.)

12 (405 ILCS 5/3-900) (from Ch. 91 1/2, par. 3-900)

13 Sec. 3-900. (a) Any person committed on an inpatient or
14 outpatient basis ~~hospitalized or admitted to alternative~~
15 ~~treatment or care and custody as having mental illness~~ on court
16 order under this Chapter or under any prior statute or any
17 person on his behalf may file a petition for discharge at any
18 time in the court of the county where the recipient resides or
19 is found.

20 (b) The petition shall set forth: (1) the name of the
21 recipient; (2) the underlying circumstances and date of the
22 order; (3) a request for discharge from the order; and (4) the
23 reasons for such request.

24 (Source: P.A. 88-380.)

1 (405 ILCS 5/3-901) (from Ch. 91 1/2, par. 3-901)

2 Sec. 3-901. (a) Upon the filing of a petition under Section
3 3-900 or Section 3-906, the court shall set the matter for
4 hearing to be held within 5 days, excluding Saturdays, Sundays,
5 and holidays. The court shall direct that notice of the time
6 and place of the hearing be given to the recipient, his
7 attorney, his guardian, the facility director, the person
8 having care and custody of the recipient, and to at least 2
9 persons whom the recipient may designate.

10 (b) Article VIII of this Chapter applies to hearings held
11 under this Section. The court shall determine whether the
12 recipient is: (i) subject to involuntary admission on an
13 inpatient basis; (ii) subject to involuntary admission on an
14 outpatient basis; or (iii) not subject to involuntary admission
15 on either an inpatient or outpatient basis. If the court finds
16 that the recipient is not subject to involuntary admission on
17 an inpatient or outpatient basis, the court shall enter an
18 order so finding and discharging the recipient. If the court
19 orders the discharge of a recipient who was adjudicated as
20 having mental illness pursuant to any prior statute of this
21 State or who was otherwise adjudicated to be under legal
22 disability, the court shall also enter an order restoring the
23 recipient to legal status without disability unless the court
24 finds that the recipient continues to be under legal
25 disability. A copy of any order discharging the recipient shall
26 be given to the recipient and to the facility director.

1 (b-1) If the court determines that the recipient is subject
2 to involuntary admission on an outpatient basis, the court
3 shall enter an appropriate order pursuant to Section 3-812.

4 (c) If the court determines that the recipient continues to
5 be subject to involuntary admission on an inpatient basis, the
6 court may continue or modify its original order in accordance
7 with this Act. Thereafter, no new petition for discharge may be
8 filed without leave of court.

9 (Source: P.A. 88-380.)

10 (405 ILCS 5/3-902) (from Ch. 91 1/2, par. 3-902)

11 Sec. 3-902. Director initiated discharge.

12 (a) The facility director may at any time discharge an
13 informal, voluntary, or minor recipient who is clinically
14 suitable for discharge.

15 (b) The facility director shall discharge a recipient
16 admitted upon court order under this Chapter or any prior
17 statute where he is no longer subject to involuntary admission
18 on an inpatient basis. If the facility director believes that
19 continuing treatment is advisable for such recipient, he shall
20 inform the recipient of his right to remain as an informal or
21 voluntary recipient. If the facility director determines that
22 the recipient is subject to involuntary admission on an
23 outpatient basis, he or she shall petition the court for such a
24 commitment pursuant to this Chapter.

25 (c) When a facility director discharges or changes the

1 status of a recipient pursuant to this Section he shall
2 promptly notify the clerk of the court which entered the
3 original order of the discharge or change in status. Upon
4 receipt of such notice, the clerk of the court shall note the
5 action taken in the court record. If the person being
6 discharged is a person under legal disability, the facility
7 director shall also submit a certificate regarding his legal
8 status without disability pursuant to Section 3-907.

9 (d) When the facility director determines that discharge is
10 appropriate for a recipient pursuant to this Section or Section
11 3-403 he or she shall notify the state's attorney of the county
12 in which the recipient resided immediately prior to his
13 admission to a mental health facility and the state's attorney
14 of the county where the last petition for commitment was filed
15 at least 48 hours prior to the discharge when either state's
16 attorney has requested in writing such notification on that
17 individual recipient or when the facility director regards a
18 recipient as a continuing threat to the peace and safety of the
19 community. Upon receipt of such notice, the state's attorney
20 may take any court action or notify such peace officers that he
21 deems appropriate. When the facility director determines that
22 discharge is appropriate for a recipient pursuant to this
23 Section or Section 3-403, he or she shall notify the person
24 whose petition pursuant to Section 3-701 resulted in the
25 current hospitalization of the recipient's discharge at least
26 48 hours prior to the discharge, if the petitioner has

1 requested in writing such notification on that individual
2 recipient.

3 (e) The facility director may grant a temporary release to
4 a recipient whose condition is not considered appropriate for
5 discharge where such release is considered to be clinically
6 appropriate, provided that the release does not endanger the
7 public safety.

8 (Source: P.A. 96-570, eff. 1-1-10.)

9 (405 ILCS 5/1-104.5 rep.)

10 (405 ILCS 5/3-704.1 rep.)

11 (405 ILCS 5/3-815 rep.)

12 Section 10. The Mental Health and Developmental
13 Disabilities Code is amended by repealing Sections 1-104.5,
14 3-704.1, and 3-815.

15 Section 15. The Mental Health and Developmental
16 Disabilities Confidentiality Act is amended by changing
17 Sections 4, 9.2, and 10 as follows:

18 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

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

22 (1) the parent or guardian of a recipient who is under
23 12 years of age;

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

2 (3) the parent or guardian of a recipient who is at
3 least 12 but under 18 years, if the recipient is informed
4 and does not object or if the therapist does not find that
5 there are compelling reasons for denying the access. The
6 parent or guardian who is denied access by either the
7 recipient or the therapist may petition a court for access
8 to the record. Nothing in this paragraph is intended to
9 prohibit the parent or guardian of a recipient who is at
10 least 12 but under 18 years from requesting and receiving
11 the following information: current physical and mental
12 condition, diagnosis, treatment needs, services provided,
13 and services needed, including medication, if any;

14 (4) the guardian of a recipient who is 18 years or
15 older;

16 (5) an attorney or guardian ad litem who represents a
17 minor 12 years of age or older in any judicial or
18 administrative proceeding, provided that the court or
19 administrative hearing officer has entered an order
20 granting the attorney this right; ~~or~~

21 (6) an agent appointed under a recipient's power of
22 attorney for health care or for property, when the power of
23 attorney authorizes the access; ~~or~~

24 (7) an attorney-in-fact appointed under the Mental
25 Health Treatment Preference Declaration Act; or

26 (8) any person in whose care and custody the recipient

1 has been placed pursuant to Section 3-811 of the Mental
2 Health and Developmental Disabilities Code.

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

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

1 believes is incorrect or misleading. If the request is refused,
2 the person may seek a court order to compel modification.

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

6 (Source: P.A. 88-484; 89-439, eff. 6-1-96.)

7 (740 ILCS 110/9.2)

8 Sec. 9.2. Interagency disclosure of recipient information.
9 For the purposes of continuity of care, the Department of Human
10 Services (as successor to the Department of Mental Health and
11 Developmental Disabilities), community agencies funded by the
12 Department of Human Services in that capacity, licensed private
13 hospitals receiving payments from the Department of Human
14 Services or the Department of Healthcare and Family Services,
15 State correctional facilities ~~prisons operated by the~~
16 ~~Department of Corrections~~, mental health facilities operated
17 by a county, and jails operated by any county of this State may
18 disclose a recipient's record or communications, without
19 consent, to each other, but only for the purpose of admission,
20 treatment, planning, or discharge. Entities shall not
21 redisclose any personally identifiable information, unless
22 necessary for admission, treatment, planning, or discharge of
23 the identified recipient to another setting. No records or
24 communications may be disclosed to a county jail or State
25 correctional facility ~~prison~~ pursuant to this Section unless

1 the Department has entered into a written agreement with the
2 county jail or State correctional facility ~~prison~~ requiring
3 that the county jail or State correctional facility ~~prison~~
4 adopt written policies and procedures designed to ensure that
5 the records and communications are disclosed only to those
6 persons employed by or under contract to the county jail or
7 State correctional facility ~~prison~~ who are involved in the
8 provision of mental health services to inmates and that the
9 records and communications are protected from further
10 disclosure.

11 (Source: P.A. 94-182, eff. 7-12-05.)

12 (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

13 Sec. 10. (a) Except as provided herein, in any civil,
14 criminal, administrative, or legislative proceeding, or in any
15 proceeding preliminary thereto, a recipient, and a therapist on
16 behalf and in the interest of a recipient, has the privilege to
17 refuse to disclose and to prevent the disclosure of the
18 recipient's record or communications.

19 (1) Records and communications may be disclosed in a
20 civil, criminal or administrative proceeding in which the
21 recipient introduces his mental condition or any aspect of
22 his services received for such condition as an element of
23 his claim or defense, if and only to the extent the court
24 in which the proceedings have been brought, or, in the case
25 of an administrative proceeding, the court to which an

1 appeal or other action for review of an administrative
2 determination may be taken, finds, after in camera
3 examination of testimony or other evidence, that it is
4 relevant, probative, not unduly prejudicial or
5 inflammatory, and otherwise clearly admissible; that other
6 satisfactory evidence is demonstrably unsatisfactory as
7 evidence of the facts sought to be established by such
8 evidence; and that disclosure is more important to the
9 interests of substantial justice than protection from
10 injury to the therapist-recipient relationship or to the
11 recipient or other whom disclosure is likely to harm.
12 Except in a criminal proceeding in which the recipient, who
13 is accused in that proceeding, raises the defense of
14 insanity, no record or communication between a therapist
15 and a recipient shall be deemed relevant for purposes of
16 this subsection, except the fact of treatment, the cost of
17 services and the ultimate diagnosis unless the party
18 seeking disclosure of the communication clearly
19 establishes in the trial court a compelling need for its
20 production. However, for purposes of this Act, in any
21 action brought or defended under the Illinois Marriage and
22 Dissolution of Marriage Act, or in any action in which pain
23 and suffering is an element of the claim, mental condition
24 shall not be deemed to be introduced merely by making such
25 claim and shall be deemed to be introduced only if the
26 recipient or a witness on his behalf first testifies

1 concerning the record or communication.

2 (2) Records or communications may be disclosed in a
3 civil proceeding after the recipient's death when the
4 recipient's physical or mental condition has been
5 introduced as an element of a claim or defense by any party
6 claiming or defending through or as a beneficiary of the
7 recipient, provided the court finds, after in camera
8 examination of the evidence, that it is relevant,
9 probative, and otherwise clearly admissible; that other
10 satisfactory evidence is not available regarding the facts
11 sought to be established by such evidence; and that
12 disclosure is more important to the interests of
13 substantial justice than protection from any injury which
14 disclosure is likely to cause.

15 (3) In the event of a claim made or an action filed by
16 a recipient, or, following the recipient's death, by any
17 party claiming as a beneficiary of the recipient for injury
18 caused in the course of providing services to such
19 recipient, the therapist and other persons whose actions
20 are alleged to have been the cause of injury may disclose
21 pertinent records and communications to an attorney or
22 attorneys engaged to render advice about and to provide
23 representation in connection with such matter and to
24 persons working under the supervision of such attorney or
25 attorneys, and may testify as to such records or
26 communication in any administrative, judicial or discovery

1 proceeding for the purpose of preparing and presenting a
2 defense against such claim or action.

3 (4) Records and communications made to or by a
4 therapist in the course of examination ordered by a court
5 for good cause shown may, if otherwise relevant and
6 admissible, be disclosed in a civil, criminal, or
7 administrative proceeding in which the recipient is a party
8 or in appropriate pretrial proceedings, provided such
9 court has found that the recipient has been as adequately
10 and as effectively as possible informed before submitting
11 to such examination that such records and communications
12 would not be considered confidential or privileged. Such
13 records and communications shall be admissible only as to
14 issues involving the recipient's physical or mental
15 condition and only to the extent that these are germane to
16 such proceedings.

17 (5) Records and communications may be disclosed in a
18 proceeding under the Probate Act of 1975, to determine a
19 recipient's competency or need for guardianship, provided
20 that the disclosure is made only with respect to that
21 issue.

22 (6) Records and communications may be disclosed when
23 such are made during treatment which the recipient is
24 ordered to undergo to render him fit to stand trial on a
25 criminal charge, provided that the disclosure is made only
26 with respect to the issue of fitness to stand trial.

1 (7) Records and communications of the recipient may be
2 disclosed in any civil or administrative proceeding
3 involving the validity of or benefits under a life,
4 accident, health or disability insurance policy or
5 certificate, or Health Care Service Plan Contract,
6 insuring the recipient, but only if and to the extent that
7 the recipient's mental condition, or treatment or services
8 in connection therewith, is a material element of any claim
9 or defense of any party, provided that information sought
10 or disclosed shall not be redisclosed except in connection
11 with the proceeding in which disclosure is made.

12 (8) Records or communications may be disclosed when
13 such are relevant to a matter in issue in any action
14 brought under this Act and proceedings preliminary
15 thereto, provided that any information so disclosed shall
16 not be utilized for any other purpose nor be redisclosed
17 except in connection with such action or preliminary
18 proceedings.

19 (9) Records and communications of the recipient may be
20 disclosed in investigations of and trials for homicide when
21 the disclosure relates directly to the fact or immediate
22 circumstances of the homicide.

23 (10) Records and communications of a deceased
24 recipient may be disclosed to a coroner conducting a
25 preliminary investigation into the recipient's death under
26 Section 3-3013 of the Counties Code. However, records and

1 communications of the deceased recipient disclosed in an
2 investigation shall be limited solely to the deceased
3 recipient's records and communications relating to the
4 factual circumstances of the incident being investigated
5 in a mental health facility.

6 (11) Records and communications of a recipient shall be
7 disclosed in a proceeding where a petition or motion is
8 filed under the Juvenile Court Act of 1987 and the
9 recipient is named as a parent, guardian, or legal
10 custodian of a minor who is the subject of a petition for
11 wardship as described in Section 2-3 of that Act or a minor
12 who is the subject of a petition for wardship as described
13 in Section 2-4 of that Act alleging the minor is abused,
14 neglected, or dependent or the recipient is named as a
15 parent of a child who is the subject of a petition,
16 supplemental petition, or motion to appoint a guardian with
17 the power to consent to adoption under Section 2-29 of the
18 Juvenile Court Act of 1987.

19 (12) Records and communications of a recipient may be
20 disclosed when disclosure is necessary to collect sums or
21 receive third party payment representing charges for
22 mental health or developmental disabilities services
23 provided by a therapist or agency to a recipient; however,
24 disclosure shall be limited to information needed to pursue
25 collection, and the information so disclosed may not be
26 used for any other purposes nor may it be redisclosed

1 except in connection with collection activities. Whenever
2 records are disclosed pursuant to this subdivision (12),
3 the recipient of the records shall be advised in writing
4 that any person who discloses mental health records and
5 communications in violation of this Act may be subject to
6 civil liability pursuant to Section 15 of this Act or to
7 criminal penalties pursuant to Section 16 of this Act or
8 both.

9 (b) Before a disclosure is made under subsection (a), any
10 party to the proceeding or any other interested person may
11 request an in camera review of the record or communications to
12 be disclosed. The court or agency conducting the proceeding may
13 hold an in camera review on its own motion. When, contrary to
14 the express wish of the recipient, the therapist asserts a
15 privilege on behalf and in the interest of a recipient, the
16 court may require that the therapist, in an in camera hearing,
17 establish that disclosure is not in the best interest of the
18 recipient. The court or agency may prevent disclosure or limit
19 disclosure to the extent that other admissible evidence is
20 sufficient to establish the facts in issue. The court or agency
21 may enter such orders as may be necessary in order to protect
22 the confidentiality, privacy, and safety of the recipient or of
23 other persons. Any order to disclose or to not disclose shall
24 be considered a final order for purposes of appeal and shall be
25 subject to interlocutory appeal.

26 (c) A recipient's records and communications may be

1 disclosed to a duly authorized committee, commission or
2 subcommittee of the General Assembly which possesses subpoena
3 and hearing powers, upon a written request approved by a
4 majority vote of the committee, commission or subcommittee
5 members. The committee, commission or subcommittee may request
6 records only for the purposes of investigating or studying
7 possible violations of recipient rights. The request shall
8 state the purpose for which disclosure is sought.

9 The facility shall notify the recipient, or his guardian,
10 and therapist in writing of any disclosure request under this
11 subsection within 5 business days after such request. Such
12 notification shall also inform the recipient, or guardian, and
13 therapist of their right to object to the disclosure within 10
14 business days after receipt of the notification and shall
15 include the name, address and telephone number of the
16 committee, commission or subcommittee member or staff person
17 with whom an objection shall be filed. If no objection has been
18 filed within 15 business days after the request for disclosure,
19 the facility shall disclose the records and communications to
20 the committee, commission or subcommittee. If an objection has
21 been filed within 15 business days after the request for
22 disclosure, the facility shall disclose the records and
23 communications only after the committee, commission or
24 subcommittee has permitted the recipient, guardian or
25 therapist to present his objection in person before it and has
26 renewed its request for disclosure by a majority vote of its

1 members.

2 Disclosure under this subsection shall not occur until all
3 personally identifiable data of the recipient and provider are
4 removed from the records and communications. Disclosure under
5 this subsection shall not occur in any public proceeding.

6 (d) No party to any proceeding described under paragraphs
7 (1), (2), (3), (4), (7), or (8) of subsection (a) of this
8 Section, nor his or her attorney, shall serve a subpoena
9 seeking to obtain access to records or communications under
10 this Act unless the subpoena is accompanied by a written order
11 issued by a judge, authorizing the disclosure of the records or
12 the issuance of the subpoena. No such written order shall be
13 issued without written notice of the motion to the recipient
14 and the treatment provider. Prior to issuance of the order,
15 each party or other person entitled to notice shall be
16 permitted an opportunity to be heard pursuant to subsection (b)
17 of this Section. No person shall comply with a subpoena for
18 records or communications under this Act, unless the subpoena
19 is accompanied by a written order authorizing the issuance of
20 the subpoena or the disclosure of the records. Each subpoena
21 duces tecum issued by a court or administrative agency or
22 served on any person pursuant to this subsection (d) shall
23 include the following language: "No person shall comply with a
24 subpoena for mental health records or communications pursuant
25 to Section 10 of the Mental Health and Developmental
26 Disabilities Confidentiality Act, 740 ILCS 110/10, unless the

1 subpoena is accompanied by a written order that authorizes the
2 issuance of the subpoena and the disclosure of records or
3 communications."

4 (e) When a person has been transported by a peace officer
5 to a mental health facility, then upon the request of a peace
6 officer, if the person is allowed to leave the mental health
7 facility within 48 hours of arrival, excluding Saturdays,
8 Sundays, and holidays, the facility director shall notify the
9 local law enforcement authority prior to the release of the
10 person. The local law enforcement authority may re-disclose the
11 information as necessary to alert the appropriate enforcement
12 or prosecuting authority.

13 (f) A recipient's records and communications shall be
14 disclosed to the Inspector General of the Department of Human
15 Services within 10 business days of a request by the Inspector
16 General (i) in the course of an investigation authorized by the
17 Department of Human Services Act and applicable rule or (ii)
18 during the course of an assessment authorized by the Abuse of
19 Adults with Disabilities Intervention Act and applicable rule.
20 The request shall be in writing and signed by the Inspector
21 General or his or her designee. The request shall state the
22 purpose for which disclosure is sought. Any person who
23 knowingly and willfully refuses to comply with such a request
24 is guilty of a Class A misdemeanor. A recipient's records and
25 communications shall also be disclosed pursuant to subsection
26 (g-5) of Section 1-17 of the Department of Human Services Act

1 in testimony at health care worker registry hearings or
2 preliminary proceedings when such are relevant to the matter in
3 issue, provided that any information so disclosed shall not be
4 utilized for any other purpose nor be redisclosed except in
5 connection with such action or preliminary proceedings.

6 (Source: P.A. 96-406, eff. 8-13-09.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.