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FISCAL NOTE ACT  
MAY APPLY

09600SB3129ham001

LRB096 14618 KTG 40241 a

1 AMENDMENT TO SENATE BILL 3129

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3129 by replacing  
3 everything after the enacting clause with the following:

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, unless treated on an

1 inpatient basis, to engage in conduct placing such person  
2 or another in physical harm or in reasonable expectation of  
3 being physically harmed ~~dangerous conduct which may~~  
4 ~~include threatening behavior or conduct that places that~~  
5 ~~person or another individual in reasonable expectation of~~  
6 ~~being harmed;~~

7 (2) A person with mental illness ~~and~~ who because of his  
8 or her illness is unable to provide for his or her basic  
9 physical needs so as to guard himself or herself from  
10 serious harm without the assistance of family or others,  
11 unless treated on an inpatient basis ~~outside help;~~ or

12 (3) A person with mental illness who:

13 (i) refuses treatment or is not adhering  
14 adequately to prescribed treatment;

15 (ii) because of the nature of his or her illness,  
16 is unable to understand his or her need for treatment;  
17 and

18 (iii) if not treated, is reasonably expected,  
19 based on his or her behavioral history, to suffer  
20 mental or emotional deterioration and, after such  
21 deterioration, meets the criteria of either paragraph  
22 (1) or paragraph (2) of this Section. ~~, because of the~~  
23 ~~nature of his or her illness, is unable to understand~~  
24 ~~his or her need for treatment and who, if not treated,~~  
25 ~~is reasonably expected to suffer or continue to suffer~~  
26 ~~mental deterioration or emotional deterioration, or~~

1           ~~both, to the point that the person is reasonably~~  
2           ~~expected to engage in dangerous conduct.~~

3           In determining whether a person meets the criteria  
4           specified in paragraph (1), (2), or (3), the court may consider  
5           evidence of the person's repeated past pattern of specific  
6           behavior and actions related to the person's illness.

7           (Source: P.A. 95-602, eff. 6-1-08.); and

8           (405 ILCS 5/1-119.1 new)

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

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

16           (2) A person with a mental illness which, if left  
17           untreated, is reasonably expected to result in an increase  
18           in the symptoms caused by the illness to the point that the  
19           person would meet the criteria for commitment under Section  
20           1-119, and whose mental illness has, on more than one  
21           occasion in the past, caused that person to refuse needed  
22           and appropriate mental health services in the community.

23           (405 ILCS 5/3-600) (from Ch. 91 1/2, par. 3-600)

24           Sec. 3-600. A person 18 years of age or older who is

1 subject to involuntary admission on an inpatient basis and in  
2 need of immediate hospitalization may be admitted to a mental  
3 health facility pursuant to this Article.

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

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

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

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

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

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

22 2. The name and address of the spouse, parent,  
23 guardian, substitute decision maker, if any, and close  
24 relative, or if none, the name and address of any known  
25 friend of the respondent whom the petitioner has reason to

1 believe may know or have any of the other names and  
2 addresses. If the petitioner is unable to supply any such  
3 names and addresses, the petitioner shall state that  
4 diligent inquiry was made to learn this information and  
5 specify the steps taken.

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

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

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

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

19 (405 ILCS 5/3-602) (from Ch. 91 1/2, par. 3-602)

20 Sec. 3-602. The petition shall be accompanied by a  
21 certificate executed by a physician, qualified examiner,  
22 psychiatrist, or clinical psychologist which states that the  
23 respondent is subject to involuntary admission on an inpatient  
24 basis and requires immediate hospitalization. The certificate  
25 shall indicate that the physician, qualified examiner,

1 psychiatrist, or clinical psychologist personally examined the  
2 respondent not more than 72 hours prior to admission. It shall  
3 also contain the physician's, qualified examiner's,  
4 psychiatrist's, or clinical psychologist's clinical  
5 observations, other factual information relied upon in  
6 reaching a diagnosis, and a statement as to whether the  
7 respondent was advised of his rights under Section 3-208.

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

9 (405 ILCS 5/3-603) (from Ch. 91 1/2, par. 3-603)

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

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

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

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

23 3. no physician, qualified examiner, psychiatrist, or  
24 clinical psychologist could be found who has examined or  
25 could examine the respondent; and

1           4. a diligent effort has been made to convince the  
2           respondent to appear voluntarily for examination by a  
3           physician, qualified examiner, psychiatrist, or clinical  
4           psychologist, unless the petitioner reasonably believes  
5           that effort would impose a risk of harm to the respondent  
6           or others.

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

9           (405 ILCS 5/3-606) (from Ch. 91 1/2, par. 3-606)

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

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

22          (405 ILCS 5/3-607) (from Ch. 91 1/2, par. 3-607)

23          Sec. 3-607. Court ordered temporary detention and  
24          examination. When, as a result of personal observation and

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

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



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

2 Sec. 3-610. As soon as possible but not later than 24  
3 hours, excluding Saturdays, Sundays and holidays, after  
4 admission of a respondent pursuant to this Article, the  
5 respondent shall be examined by a psychiatrist. The  
6 psychiatrist may be a member of the staff of the facility but  
7 shall not be the person who executed the first certificate. If  
8 a certificate has already been completed by a psychiatrist  
9 following the respondent's admission, the respondent shall be  
10 examined by another psychiatrist or by a physician, clinical  
11 psychologist, or qualified examiner. If, as a result of this  
12 second examination, a certificate is executed, the certificate  
13 shall be promptly filed with the court. If the certificate  
14 states that the respondent is subject to involuntary admission  
15 but not in need of immediate hospitalization, the respondent  
16 may remain in his or her place of residence pending a hearing  
17 on the petition unless he or she voluntarily agrees to  
18 inpatient treatment. If the respondent is not examined or if  
19 the psychiatrist, physician, clinical psychologist, or  
20 qualified examiner does not execute a certificate pursuant to  
21 Section 3-602, the respondent shall be released forthwith.

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

23 (405 ILCS 5/Ch. III Art. VII heading)

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

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

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

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

7 (405 ILCS 5/3-701) (from Ch. 91 1/2, par. 3-701)

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

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

22 (c) A petition for involuntary admission on an inpatient  
23 basis may be combined with or accompanied by a petition for  
24 involuntary admission on an outpatient basis under Article  
25 VII-A.

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

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

3 Sec. 3-702. (a) The petition may be accompanied by the  
4 certificate of a physician, qualified examiner, psychiatrist,  
5 or clinical psychologist which certifies that the respondent is  
6 subject to involuntary admission on an inpatient basis and  
7 which contains the other information specified in Section  
8 3-602.

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

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

20 (405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

21 Sec. 3-703. If no certificate was filed, the respondent  
22 shall be examined separately by a physician, or clinical  
23 psychologist, or qualified examiner and by a psychiatrist. If a  
24 certificate executed by a psychiatrist was filed, the

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

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

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

2 Sec. 3-704. Examination; detention.

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

22 (a-5) Whenever a respondent has been transported to a  
23 mental health facility for an examination, the admitting  
24 facility shall inquire, upon the respondent's arrival, whether  
25 the respondent wishes any person or persons to be notified of

1 his or her detention at that facility. If the respondent does  
2 wish to have any person or persons notified of his or her  
3 detention at the facility, the facility must promptly make all  
4 reasonable attempts to locate the individual identified by the  
5 respondent, or at least 2 individuals identified by the  
6 respondent if more than one has been identified, and notify  
7 them of the respondent's detention at the facility for a  
8 mandatory examination pursuant to court order.

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

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

19 (405 ILCS 5/Ch. III Art. VII-A heading new)

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

21 (405 ILCS 5/3-750 new)

22 Sec. 3-750. Involuntary admission on an outpatient basis. A  
23 person 18 years of age or older who is subject to involuntary  
24 admission on an outpatient basis may receive alternative

1 treatment in the community or may be placed in the care and  
2 custody of a relative or other person upon court order pursuant  
3 to this Article.

4 (405 ILCS 5/3-751 new)

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

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

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

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

19 (405 ILCS 5/3-752 new)

20 Sec. 3-752. Certificate.

21 (a) The petition may be accompanied by the certificate of a  
22 physician, qualified examiner, psychiatrist, or clinical  
23 psychologist which certifies that the respondent is subject to  
24 involuntary admission on an outpatient basis. The certificate

1 shall indicate that the physician, qualified examiner, or  
2 clinical psychologist personally examined the respondent not  
3 more than 72 hours prior to the completion of the certificate.  
4 It shall also contain the physician's, qualified examiner's, or  
5 clinical psychologist's clinical observations, other factual  
6 information relied upon in reaching a diagnosis, and a  
7 statement as to whether the respondent was advised of his or  
8 her rights under Section 3-208.

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

20 (405 ILCS 5/3-753 new)

21 Sec. 3-753. Examination. If no certificate was filed, the  
22 respondent shall be examined separately by a physician, or  
23 clinical psychologist or qualified examiner and by a  
24 psychiatrist. If a certificate executed by a psychiatrist was  
25 filed, the respondent shall be examined by a physician,



1 clinical psychologist, qualified examiner, or psychiatrist. If  
2 a certificate executed by a qualified examiner, clinical  
3 psychologist, or a physician who is not a psychiatrist was  
4 filed, the respondent shall be examined by a psychiatrist. The  
5 examining physician, clinical psychologist, qualified examiner  
6 or psychiatrist may interview by telephone or in person any  
7 witnesses or other persons listed in the petition for  
8 involuntary admission. If, as a result of an examination, a  
9 certificate is executed, the certificate shall be promptly  
10 filed with the court. If a certificate is executed, the  
11 examining physician, clinical psychologist, qualified examiner  
12 or psychiatrist may also submit for filing with the court a  
13 report in which his or her findings are described in detail,  
14 and may rely upon such findings for his opinion that the  
15 respondent is subject to involuntary admission. Copies of the  
16 certificates shall be made available to the attorneys for the  
17 parties upon request prior to the hearing.

18 (405 ILCS 5/3-754 new)

19 Sec. 3-754. Detention.

20 (a) The respondent shall be permitted to remain in his or  
21 her place of residence pending any examination. The respondent  
22 may be accompanied by one or more of his or her relatives or  
23 friends or by his or her attorney to the place of examination.  
24 If, however, the respondent refuses to cooperate with an  
25 examination on an outpatient basis, the court may order that

1 the person be admitted to a mental health facility solely for  
2 the purpose of such examination and may order a peace officer  
3 or other person to transport the person there. The examination  
4 shall be conducted at a local mental health facility or  
5 hospital or, if possible, in the respondent's own place of  
6 residence. No person may be detained for examination under this  
7 Section for more than 24 hours. The person shall be released  
8 upon completion of the examination unless the physician,  
9 qualified examiner or clinical psychologist executes a  
10 certificate stating that the person is subject to involuntary  
11 admission on an inpatient basis and in need of immediate  
12 hospitalization to protect such person or others from physical  
13 harm and a petition is filed pursuant to Section 3-701. Upon  
14 admission under this Section treatment may be given pursuant to  
15 Section 3-608. If the respondent is admitted on an inpatient  
16 basis, the facility shall proceed pursuant to Article VII.

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

1 respondent's detention at the facility for a mandatory  
2 examination pursuant to court order.

3 (405 ILCS 5/3-755 new)

4 Sec. 3-755. Notice. At least 36 hours before the time of  
5 the examination fixed by the court, a copy of the petition, the  
6 order for examination, and a statement of rights as provided in  
7 Section 3-205 shall be personally delivered to the person and  
8 shall be given personally or sent by mail to his or her  
9 attorney and guardian, if any. If the respondent is admitted to  
10 a mental health facility for examination under Section 3-754,  
11 such notices may be delivered at the time of service of the  
12 order for admission.

13 (405 ILCS 5/3-756 new)

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

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

2 Sec. 3-801. A respondent may request admission as an  
3 informal or voluntary recipient at any time prior to an  
4 adjudication that he is subject to involuntary admission on an  
5 inpatient or outpatient basis. The facility director shall  
6 approve such a request unless the facility director determines  
7 that the respondent lacks the capacity to consent to informal  
8 or voluntary admission or that informal or voluntary admission  
9 is clinically inappropriate. The director shall not find that  
10 voluntary admission is clinically inappropriate in the absence  
11 of a documented history of the respondent's illness and  
12 treatment demonstrating that the respondent is unlikely to  
13 continue to receive needed treatment following release from  
14 informal or voluntary admission and that an order for  
15 involuntary admission on an outpatient basis ~~alternative~~  
16 ~~treatment or for care and custody~~ is necessary in order to  
17 ensure continuity of treatment outside a mental health  
18 facility.

19 If the facility director approves such a request, the  
20 petitioner shall be notified of the request and of his or her  
21 right to object thereto, if the petitioner has requested such  
22 notification on that individual recipient. The court may  
23 dismiss the pending proceedings, but shall consider any  
24 objection made by either the petitioner or the State's Attorney  
25 and may require proof that such dismissal is in the best  
26 interest of the respondent and of the public. If voluntary

1 admission is accepted and the petition is dismissed by the  
2 court, notice shall be provided to the petitioner, orally and  
3 in writing, of his or her right to receive notice of the  
4 recipient's discharge pursuant to Section 3-902(d).

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

6 (405 ILCS 5/3-801.5)

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

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

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

24 (2) The court advises the respondent of the conditions  
25 of the proposed order in open court and is satisfied that

1 the respondent understands and agrees to the conditions of  
2 the proposed order for admission on an outpatient basis  
3 ~~alternative treatment or care and custody.~~

4 (3) The proposed custodian is advised of the  
5 recommendation for care and custody and agrees to abide by  
6 the terms of the proposed order.

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

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

16 (b) An agreed order of care and custody entered pursuant to  
17 this Section may grant the custodian the authority to admit a  
18 respondent to a hospital if the respondent fails to comply with  
19 the conditions of the agreed order. If necessary in order to  
20 obtain the hospitalization of the respondent, the custodian may  
21 apply to the court for an order authorizing an officer of the  
22 peace to take the respondent into custody and transport the  
23 respondent to the hospital specified in the agreed order. The  
24 provisions of Section 3-605 of this Code 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. However, a person admitted to a hospital  
2 pursuant to powers granted under an agreed order for care and  
3 custody shall be treated as a voluntary recipient pursuant to  
4 Article IV of this Chapter and shall be advised immediately of  
5 his or her right to request a discharge pursuant to Section  
6 3-403 of this Code.

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

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

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

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

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

22 (405 ILCS 5/3-802) (from Ch. 91 1/2, par. 3-802)

23 Sec. 3-802. The respondent is entitled to a jury on the  
24 question of whether he is subject to involuntary admission on  
25 an inpatient or outpatient basis. The jury shall consist of 6

1 persons to be chosen in the same manner as are jurors in other  
2 civil proceedings. A respondent is not entitled to a jury on  
3 the question of whether psychotropic medication or  
4 electroconvulsive therapy may be administered under Section  
5 2-107.1.

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

7 (405 ILCS 5/3-805) (from Ch. 91 1/2, par. 3-805)

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

23 1. If the court determines that the respondent is unable to  
24 obtain counsel, the court shall appoint as counsel an attorney  
25 employed by or under contract with the Guardianship and Mental



1 Health Advocacy Commission, if available.

2 2. If an attorney from the Guardianship and Mental Health  
3 Advocacy Commission is not available, the court shall appoint  
4 as counsel the public defender or, only if no public defender  
5 is available, an attorney licensed to practice law in this  
6 State.

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

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

15 (405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

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

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

23 (405 ILCS 5/3-808) (from Ch. 91 1/2, par. 3-808)

24 Sec. 3-808. No respondent may be found subject to

1 involuntary admission on an inpatient or outpatient basis  
2 unless that finding has been established by clear and  
3 convincing evidence.

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

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

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

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

17 (405 ILCS 5/3-810) (from Ch. 91 1/2, par. 3-810)

18 Sec. 3-810. Before disposition is determined, the facility  
19 director or such other person as the court may direct shall  
20 prepare a written report including information on the  
21 appropriateness and availability of alternative treatment  
22 settings, a social investigation of the respondent, a  
23 preliminary treatment plan, and any other information which the  
24 court may order. The treatment plan shall describe the

1 respondent's problems and needs, the treatment goals, the  
2 proposed treatment methods, and a projected timetable for their  
3 attainment. If the respondent is found subject to involuntary  
4 admission on an inpatient or outpatient basis, the court shall  
5 consider the report in determining an appropriate disposition.

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

7 (405 ILCS 5/3-811) (from Ch. 91 1/2, par. 3-811)

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

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

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

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

7 (405 ILCS 5/3-812) (from Ch. 91 1/2, par. 3-812)

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

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

16 (b) An order placing the respondent in the care and custody  
17 of a relative or other person shall specify the powers and  
18 duties of the custodian. An order of care and custody entered  
19 pursuant to this Section may grant the custodian the authority  
20 to admit a respondent to a hospital if the respondent fails to  
21 comply with the conditions of the order. If necessary in order  
22 to obtain the hospitalization of the respondent, the custodian  
23 may apply to the court for an order authorizing an officer of  
24 the peace to take the respondent into custody and transport the  
25 respondent to the hospital specified in the agreed order. The

1 provisions of Section 3-605 shall govern the transportation of  
2 the respondent to a mental health facility, except to the  
3 extent that those provisions are inconsistent with this  
4 Section. No person admitted to a hospital pursuant to this  
5 subsection shall be detained for longer than 24 hours,  
6 excluding Saturdays, Sundays, and holidays, unless, within  
7 that period, a petition for involuntary admission on an  
8 inpatient basis and a certificate supporting such petition have  
9 been filed as provided in Section 3-611.

10 (c) ~~(a)~~ Alternative treatment shall not be ordered unless  
11 the program being considered is capable of providing adequate  
12 and humane treatment in the least restrictive setting which is  
13 appropriate to the respondent's condition. The court shall have  
14 continuing authority to modify an order for alternative  
15 treatment if the recipient fails to comply with the order or is  
16 otherwise found unsuitable for alternative treatment. Prior to  
17 modifying such an order, the court shall receive a report from  
18 the facility director of the program specifying why the  
19 alternative treatment is unsuitable. The recipient shall be  
20 notified and given an opportunity to respond when modification  
21 of the order for alternative treatment is considered. If the  
22 court determines that the respondent has violated the order for  
23 alternative treatment in the community or that alternative  
24 treatment in the community will no longer provide adequate  
25 assurances for the safety of the respondent or others, the  
26 court may revoke the order for alternative treatment in the

1 community and may order a peace officer to take the recipient  
2 into custody and transport him to an inpatient mental health  
3 facility. The provisions of Section 3-605 shall govern the  
4 transportation of the respondent to a mental health facility,  
5 except to the extent that those provisions are inconsistent  
6 with this Section. No person admitted to a hospital pursuant to  
7 this subsection shall be detained for longer than 24 hours,  
8 excluding Saturdays, Sundays, and holidays, unless, within  
9 that period, a petition for involuntary admission on an  
10 inpatient basis and a certificate supporting such petition have  
11 been filed as provided in Section 3-611.

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

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

22 (405 ILCS 5/3-813) (from Ch. 91 1/2, par. 3-813)

23 Sec. 3-813. (a) An initial order for commitment on an  
24 inpatient basis ~~hospitalization~~ shall be for a period not to  
25 exceed 90 days. Prior to the expiration of the initial order if

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

18 (a-1) An initial order of commitment on an outpatient basis  
19 shall be for a period not to exceed 180 days. Prior to the  
20 expiration of the initial order, if the facility director or  
21 the custodian believes that the recipient continues to be  
22 subject to involuntary admission on an outpatient basis, a new  
23 petition and 2 new certificates may be filed with the court. If  
24 a petition is filed, the facility director or the custodian  
25 shall file with the court a current treatment plan which  
26 includes an evaluation of the recipient's progress and the

1 extent to which he or she is benefiting from treatment. If no  
2 petition is filed prior to the expiration of the initial order,  
3 the recipient shall be discharged. Following a hearing, the  
4 court may order a second period of commitment on an outpatient  
5 basis not to exceed 180 days only if it finds that the  
6 recipient continues to be subject to involuntary admission on  
7 an outpatient basis.

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

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

17 (405 ILCS 5/3-900) (from Ch. 91 1/2, par. 3-900)

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

25 (b) The petition shall set forth: (1) the name of the



1 recipient; (2) the underlying circumstances and date of the  
2 order; (3) a request for discharge from the order; and (4) the  
3 reasons for such request.

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

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

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

14 (b) Article VIII of this Chapter applies to hearings held  
15 under this Section. The court shall determine whether the  
16 recipient is: (i) subject to involuntary admission on an  
17 inpatient basis; (ii) subject to involuntary admission on an  
18 outpatient basis; or (iii) not subject to involuntary admission  
19 on either an inpatient or outpatient basis. If the court finds  
20 that the recipient is not subject to involuntary admission on  
21 an inpatient or outpatient basis, the court shall enter an  
22 order so finding and discharging the recipient. If the court  
23 orders the discharge of a recipient who was adjudicated as  
24 having mental illness pursuant to any prior statute of this  
25 State or who was otherwise adjudicated to be under legal

1 disability, the court shall also enter an order restoring the  
2 recipient to legal status without disability unless the court  
3 finds that the recipient continues to be under legal  
4 disability. A copy of any order discharging the recipient shall  
5 be given to the recipient and to the facility director.

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

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

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

15 (405 ILCS 5/3-902) (from Ch. 91 1/2, par. 3-902)

16 Sec. 3-902. Director initiated discharge.

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

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

1 voluntary recipient. If the facility director determines that  
2 the recipient is subject to involuntary admission on an  
3 outpatient basis, he or she shall petition the court for such a  
4 commitment pursuant to this Chapter.

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

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

1 discharge is appropriate for a recipient pursuant to this  
2 Section or Section 3-403, he or she shall notify the person  
3 whose petition pursuant to Section 3-701 resulted in the  
4 current hospitalization of the recipient's discharge at least  
5 48 hours prior to the discharge, if the petitioner has  
6 requested in writing such notification on that individual  
7 recipient.

8 (e) The facility director may grant a temporary release to  
9 a recipient whose condition is not considered appropriate for  
10 discharge where such release is considered to be clinically  
11 appropriate, provided that the release does not endanger the  
12 public safety.

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

14 (405 ILCS 5/1-104.5 rep.)

15 (405 ILCS 5/3-704.1 rep.)

16 (405 ILCS 5/3-815 rep.)

17 Section 10. The Mental Health and Developmental  
18 Disabilities Code is amended by repealing Sections 1-104.5,  
19 3-704.1, and 3-815.

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

23 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

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

4           (1) the parent or guardian of a recipient who is under  
5 12 years of age;

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

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

19           (4) the guardian of a recipient who is 18 years or  
20 older;

21           (5) an attorney or guardian ad litem who represents a  
22 minor 12 years of age or older in any judicial or  
23 administrative proceeding, provided that the court or  
24 administrative hearing officer has entered an order  
25 granting the attorney this right; ~~or~~

26           (6) an agent appointed under a recipient's power of

1 attorney for health care or for property, when the power of  
2 attorney authorizes the access; ~~or~~

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

5 (8) any person in whose care and custody the recipient  
6 has been placed pursuant to Section 3-811 of the Mental  
7 Health and Developmental Disabilities Code.

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

25 (c) Any person entitled to access to a record under this  
26 Section may submit a written statement concerning any disputed

1 or new information, which statement shall be entered into the  
2 record. Whenever any disputed part of a record is disclosed,  
3 any submitted statement relating thereto shall accompany the  
4 disclosed part. Additionally, any person entitled to access may  
5 request modification of any part of the record which he  
6 believes is incorrect or misleading. If the request is refused,  
7 the person may seek a court order to compel modification.

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

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

12 (740 ILCS 110/9.2)

13 Sec. 9.2. Interagency disclosure of recipient information.  
14 For the purposes of continuity of care, the Department of Human  
15 Services (as successor to the Department of Mental Health and  
16 Developmental Disabilities), community agencies funded by the  
17 Department of Human Services in that capacity, licensed private  
18 hospitals receiving payments from the Department of Human  
19 Services or the Department of Healthcare and Family Services,  
20 State correctional facilities ~~prisons operated by the~~  
21 ~~Department of Corrections~~, mental health facilities operated  
22 by a county, and jails operated by any county of this State may  
23 disclose a recipient's record or communications, without  
24 consent, to each other, but only for the purpose of admission,  
25 treatment, planning, or discharge. Entities shall not

1     rediscover any personally identifiable information, unless  
2     necessary for admission, treatment, planning, or discharge of  
3     the identified recipient to another setting. No records or  
4     communications may be disclosed to a county jail or State  
5     correctional facility ~~prison~~ pursuant to this Section unless  
6     the Department has entered into a written agreement with the  
7     county jail or State correctional facility ~~prison~~ requiring  
8     that the county jail or State correctional facility ~~prison~~  
9     adopt written policies and procedures designed to ensure that  
10    the records and communications are disclosed only to those  
11    persons employed by or under contract to the county jail or  
12    State correctional facility ~~prison~~ who are involved in the  
13    provision of mental health services to inmates and that the  
14    records and communications are protected from further  
15    disclosure.

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

17           (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

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

24           (1) Records and communications may be disclosed in a  
25    civil, criminal or administrative proceeding in which the



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

1           Dissolution of Marriage Act, or in any action in which pain  
2           and suffering is an element of the claim, mental condition  
3           shall not be deemed to be introduced merely by making such  
4           claim and shall be deemed to be introduced only if the  
5           recipient or a witness on his behalf first testifies  
6           concerning the record or communication.

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

20          (3) In the event of a claim made or an action filed by  
21          a recipient, or, following the recipient's death, by any  
22          party claiming as a beneficiary of the recipient for injury  
23          caused in the course of providing services to such  
24          recipient, the therapist and other persons whose actions  
25          are alleged to have been the cause of injury may disclose  
26          pertinent records and communications to an attorney or

1 attorneys engaged to render advice about and to provide  
2 representation in connection with such matter and to  
3 persons working under the supervision of such attorney or  
4 attorneys, and may testify as to such records or  
5 communication in any administrative, judicial or discovery  
6 proceeding for the purpose of preparing and presenting a  
7 defense against such claim or action.

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

22 (5) Records and communications may be disclosed in a  
23 proceeding under the Probate Act of 1975, to determine a  
24 recipient's competency or need for guardianship, provided  
25 that the disclosure is made only with respect to that  
26 issue.

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

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

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

24           (9) Records and communications of the recipient may be  
25 disclosed in investigations of and trials for homicide when  
26 the disclosure relates directly to the fact or immediate

1           circumstances of the homicide.

2           (10) Records and communications of a deceased  
3 recipient may be disclosed to a coroner conducting a  
4 preliminary investigation into the recipient's death under  
5 Section 3-3013 of the Counties Code. However, records and  
6 communications of the deceased recipient disclosed in an  
7 investigation shall be limited solely to the deceased  
8 recipient's records and communications relating to the  
9 factual circumstances of the incident being investigated  
10 in a mental health facility.

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

24           (12) Records and communications of a recipient may be  
25 disclosed when disclosure is necessary to collect sums or  
26 receive third party payment representing charges for

1        mental health or developmental disabilities services  
2        provided by a therapist or agency to a recipient; however,  
3        disclosure shall be limited to information needed to pursue  
4        collection, and the information so disclosed may not be  
5        used for any other purposes nor may it be redisclosed  
6        except in connection with collection activities. Whenever  
7        records are disclosed pursuant to this subdivision (12),  
8        the recipient of the records shall be advised in writing  
9        that any person who discloses mental health records and  
10       communications in violation of this Act may be subject to  
11       civil liability pursuant to Section 15 of this Act or to  
12       criminal penalties pursuant to Section 16 of this Act or  
13       both.

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

1 the confidentiality, privacy, and safety of the recipient or of  
2 other persons. Any order to disclose or to not disclose shall  
3 be considered a final order for purposes of appeal and shall be  
4 subject to interlocutory appeal.

5 (c) A recipient's records and communications may be  
6 disclosed to a duly authorized committee, commission or  
7 subcommittee of the General Assembly which possesses subpoena  
8 and hearing powers, upon a written request approved by a  
9 majority vote of the committee, commission or subcommittee  
10 members. The committee, commission or subcommittee may request  
11 records only for the purposes of investigating or studying  
12 possible violations of recipient rights. The request shall  
13 state the purpose for which disclosure is sought.

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

1 disclosure, the facility shall disclose the records and  
2 communications only after the committee, commission or  
3 subcommittee has permitted the recipient, guardian or  
4 therapist to present his objection in person before it and has  
5 renewed its request for disclosure by a majority vote of its  
6 members.

7 Disclosure under this subsection shall not occur until all  
8 personally identifiable data of the recipient and provider are  
9 removed from the records and communications. Disclosure under  
10 this subsection shall not occur in any public proceeding.

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



1 served on any person pursuant to this subsection (d) shall  
2 include the following language: "No person shall comply with a  
3 subpoena for mental health records or communications pursuant  
4 to Section 10 of the Mental Health and Developmental  
5 Disabilities Confidentiality Act, 740 ILCS 110/10, unless the  
6 subpoena is accompanied by a written order that authorizes the  
7 issuance of the subpoena and the disclosure of records or  
8 communications."

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

18 (f) A recipient's records and communications shall be  
19 disclosed to the Inspector General of the Department of Human  
20 Services within 10 business days of a request by the Inspector  
21 General (i) in the course of an investigation authorized by the  
22 Department of Human Services Act and applicable rule or (ii)  
23 during the course of an assessment authorized by the Abuse of  
24 Adults with Disabilities Intervention Act and applicable rule.  
25 The request shall be in writing and signed by the Inspector  
26 General or his or her designee. The request shall state the

1 purpose for which disclosure is sought. Any person who  
2 knowingly and willfully refuses to comply with such a request  
3 is guilty of a Class A misdemeanor. A recipient's records and  
4 communications shall also be disclosed pursuant to subsection  
5 (g-5) of Section 1-17 of the Department of Human Services Act  
6 in testimony at health care worker registry hearings or  
7 preliminary proceedings when such are relevant to the matter in  
8 issue, provided that any information so disclosed shall not be  
9 utilized for any other purpose nor be redisclosed except in  
10 connection with such action or preliminary proceedings.

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

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law."