

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 2-107.1,
6 3-101, 3-400, 3-751, 3-800, 3-801, and 3-801.5 and by adding
7 Section 3-401.1 as follows:

8 (405 ILCS 5/2-107.1) (from Ch. 91 1/2, par. 2-107.1)

9 Sec. 2-107.1. Administration of psychotropic medication
10 and electroconvulsive therapy upon application to a court.

11 (a) (Blank).

12 (a-5) Notwithstanding the provisions of Section 2-107 of
13 this Code, psychotropic medication and electroconvulsive
14 therapy may be administered to an adult recipient of services
15 on an inpatient or outpatient basis without the informed
16 consent of the recipient under the following standards:

17 (1) Any person 18 years of age or older, including any
18 guardian, may petition the circuit court for an order
19 authorizing the administration of psychotropic medication
20 and electroconvulsive therapy to a recipient of services.
21 The petition shall state that the petitioner has made a
22 good faith attempt to determine whether the recipient has
23 executed a power of attorney for health care under the

1 Powers of Attorney for Health Care Law or a declaration for
2 mental health treatment under the Mental Health Treatment
3 Preference Declaration Act and to obtain copies of these
4 instruments if they exist. If either of the above-named
5 instruments is available to the petitioner, the instrument
6 or a copy of the instrument shall be attached to the
7 petition as an exhibit. The petitioner shall deliver a copy
8 of the petition, and notice of the time and place of the
9 hearing, to the respondent, his or her attorney, any known
10 agent or attorney-in-fact, if any, and the guardian, if
11 any, no later than 3 days prior to the date of the hearing.
12 Service of the petition and notice of the time and place of
13 the hearing may be made by transmitting them via facsimile
14 machine to the respondent or other party. Upon receipt of
15 the petition and notice, the party served, or the person
16 delivering the petition and notice to the party served,
17 shall acknowledge service. If the party sending the
18 petition and notice does not receive acknowledgement of
19 service within 24 hours, service must be made by personal
20 service.

21 The petition may include a request that the court
22 authorize such testing and procedures as may be essential
23 for the safe and effective administration of the
24 psychotropic medication or electroconvulsive therapy
25 sought to be administered, but only where the petition sets
26 forth the specific testing and procedures sought to be

1 administered.

2 If a hearing is requested to be held immediately
3 following the hearing on a petition for involuntary
4 admission, then the notice requirement shall be the same as
5 that for the hearing on the petition for involuntary
6 admission, and the petition filed pursuant to this Section
7 shall be filed with the petition for involuntary admission.

8 (2) The court shall hold a hearing within 7 days of the
9 filing of the petition. The People, the petitioner, or the
10 respondent shall be entitled to a continuance of up to 7
11 days as of right. An additional continuance of not more
12 than 7 days may be granted to any party (i) upon a showing
13 that the continuance is needed in order to adequately
14 prepare for or present evidence in a hearing under this
15 Section or (ii) under exceptional circumstances. The court
16 may grant an additional continuance not to exceed 21 days
17 when, in its discretion, the court determines that such a
18 continuance is necessary in order to provide the recipient
19 with an examination pursuant to Section 3-803 or 3-804 of
20 this Act, to provide the recipient with a trial by jury as
21 provided in Section 3-802 of this Act, or to arrange for
22 the substitution of counsel as provided for by the Illinois
23 Supreme Court Rules. The hearing shall be separate from a
24 judicial proceeding held to determine whether a person is
25 subject to involuntary admission but may be heard
26 immediately preceding or following such a judicial

1 proceeding and may be heard by the same trier of fact or
2 law as in that judicial proceeding.

3 (3) Unless otherwise provided herein, the procedures
4 set forth in Article VIII of Chapter 3 of this Act,
5 including the provisions regarding appointment of counsel,
6 shall govern hearings held under this subsection (a-5).

7 (4) Psychotropic medication and electroconvulsive
8 therapy may be administered to the recipient if and only if
9 it has been determined by clear and convincing evidence
10 that all of the following factors are present. In
11 determining whether a person meets the criteria specified
12 in the following paragraphs (A) through (G), the court may
13 consider evidence of the person's history of serious
14 violence, repeated past pattern of specific behavior,
15 actions related to the person's illness, or past outcomes
16 of various treatment options.

17 (A) That the recipient has a serious mental illness
18 or developmental disability.

19 (B) That because of said mental illness or
20 developmental disability, the recipient currently
21 exhibits any one of the following: (i) deterioration of
22 his or her ability to function, as compared to the
23 recipient's ability to function prior to the current
24 onset of symptoms of the mental illness or disability
25 for which treatment is presently sought, (ii)
26 suffering, or (iii) threatening behavior.

1 (C) That the illness or disability has existed for
2 a period marked by the continuing presence of the
3 symptoms set forth in item (B) of this subdivision (4)
4 or the repeated episodic occurrence of these symptoms.

5 (D) That the benefits of the treatment outweigh the
6 harm.

7 (E) That the recipient lacks the capacity to make a
8 reasoned decision about the treatment.

9 (F) That other less restrictive services have been
10 explored and found inappropriate.

11 (G) If the petition seeks authorization for
12 testing and other procedures, that such testing and
13 procedures are essential for the safe and effective
14 administration of the treatment.

15 (5) In no event shall an order issued under this
16 Section be effective for more than 90 days. A second 90-day
17 period of involuntary treatment may be authorized pursuant
18 to a hearing that complies with the standards and
19 procedures of this subsection (a-5). Thereafter,
20 additional 180-day periods of involuntary treatment may be
21 authorized pursuant to the standards and procedures of this
22 Section without limit. If a new petition to authorize the
23 administration of psychotropic medication or
24 electroconvulsive therapy is filed at least 15 days prior
25 to the expiration of the prior order, and if any
26 continuance of the hearing is agreed to by the recipient,

1 the administration of the treatment may continue in
2 accordance with the prior order pending the completion of a
3 hearing under this Section.

4 (6) An order issued under this subsection (a-5) shall
5 designate the persons authorized to administer the
6 treatment under the standards and procedures of this
7 subsection (a-5). Those persons shall have complete
8 discretion not to administer any treatment authorized
9 under this Section. The order shall also specify the
10 medications and the anticipated range of dosages that have
11 been authorized and may include a list of any alternative
12 medications and range of dosages deemed necessary.

13 (a-10) The court may, in its discretion, appoint a guardian
14 ad litem for a recipient before the court or authorize an
15 existing guardian of the person to monitor treatment and
16 compliance with court orders under this Section.

17 (b) A guardian may be authorized to consent to the
18 administration of psychotropic medication or electroconvulsive
19 therapy to an objecting recipient only under the standards and
20 procedures of subsection (a-5).

21 (c) Notwithstanding any other provision of this Section, a
22 guardian may consent to the administration of psychotropic
23 medication or electroconvulsive therapy to a non-objecting
24 recipient under Article XIa of the Probate Act of 1975.

25 (d) Nothing in this Section shall prevent the
26 administration of psychotropic medication or electroconvulsive

1 therapy to recipients in an emergency under Section 2-107 of
2 this Act.

3 (e) Notwithstanding any of the provisions of this Section,
4 psychotropic medication or electroconvulsive therapy may be
5 administered pursuant to a power of attorney for health care
6 under the Powers of Attorney for Health Care Law or a
7 declaration for mental health treatment under the Mental Health
8 Treatment Preference Declaration Act.

9 (f) The Department shall conduct annual trainings for
10 physicians and registered nurses working in State-operated
11 mental health facilities on the appropriate use of psychotropic
12 medication and electroconvulsive therapy, standards for their
13 use, and the preparation of court petitions under this Section.
14 (Source: P.A. 94-1066, eff. 8-1-06; 95-172, eff. 8-14-07.)

15 (405 ILCS 5/3-101) (from Ch. 91 1/2, par. 3-101)

16 Sec. 3-101. (a) The State's Attorneys of the several
17 counties shall represent the people of the State of Illinois in
18 court proceedings under this Chapter and in proceedings under
19 Section 2-107.1 in their respective counties, shall attend such
20 proceedings either in person or by assistant, and shall ensure
21 that petitions, reports and orders are properly prepared.
22 Nothing herein contained shall prevent any party, including any
23 petitioner, from being represented by his own counsel.

24 (b) Any community mental health provider or inpatient
25 mental health facility, including hospitals operated by the

1 Department, may be represented by counsel in court proceedings
2 under this Chapter if they are providing services or funding
3 for services to the respondent, or if an order by the court
4 directing said entity to provide services or funding for
5 services to the respondent is being sought by any party.

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

7 (405 ILCS 5/3-400) (from Ch. 91 1/2, par. 3-400)

8 Sec. 3-400. Voluntary admission to mental health facility.

9 (a) Any person 16 or older, including a person adjudicated
10 a disabled person, may be admitted to a mental health facility
11 as a voluntary recipient for treatment of a mental illness upon
12 the filing of an application with the facility director of the
13 facility if the facility director determines and documents in
14 the recipient's medical record that the person (1) is
15 clinically suitable for admission as a voluntary recipient and
16 (2) has the capacity to consent to voluntary admission.

17 (b) For purposes of consenting to voluntary admission, a
18 person has the capacity to consent to voluntary admission if,
19 in the professional judgment of the facility director or his or
20 her designee, the person is able to understand that:

21 (1) He or she is being admitted to a mental health
22 facility.

23 (2) He or she may request discharge at any time. The
24 request must be in writing, and discharge is not automatic.

25 (3) Within 5 business days after receipt of the written

1 request for discharge, the facility must either discharge
2 the person or initiate commitment proceedings.

3 (c) No mental health facility shall require the completion
4 of a petition or certificate as a condition of accepting the
5 admission of a recipient who is being transported to that
6 facility from any other inpatient or outpatient healthcare
7 facility if the recipient has completed an application for
8 voluntary admission to the receiving facility pursuant to this
9 Section.

10 (Source: P.A. 96-612, eff. 1-1-10.)

11 (405 ILCS 5/3-401.1 new)

12 Sec. 3-401.1. Transportation to mental health facility.
13 Upon receipt of an application for admission prepared pursuant
14 to this Article, any licensed ambulance service may transport a
15 recipient to a mental health facility or from one mental health
16 facility to another. An ambulance service, acting in good faith
17 and without negligence in connection with the transportation of
18 recipients shall incur no liability, civil or criminal, by
19 reason of such transportation.

20 (405 ILCS 5/3-751)

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

22 (a) Any person 18 years of age or older may execute a
23 petition asserting that another person is subject to
24 involuntary admission on an outpatient basis. The petition

1 shall be prepared pursuant to paragraph (b) of Section 3-601
2 and shall be filed with the court in the county where the
3 respondent resides or is present.

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

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

11 (d) Notwithstanding any other provision in this Chapter, a
12 petition may be filed under this Article prior to the
13 expiration of an agreed order for outpatient admission issued
14 pursuant to Section 3-801.5 of this Chapter, provided that the
15 recipient has refused to agree to an extension of the agreed
16 order as provided in subsection (g) of Section 3-801.5. The
17 filing of such a petition at least 5 days prior to the
18 expiration of such an agreed order shall continue the order in
19 effect pending the disposition of the petition.

20 (e) A petition for involuntary outpatient commitment may be
21 filed pursuant to this Section concerning a person who has been
22 admitted to a mental health facility on an informal basis under
23 Section 3-300 of this Code or as a voluntary recipient under
24 Section 3-400 of this Code provided that such a person has a
25 documented history of illness and treatment demonstrating that
26 he or she is unlikely to continue to receive needed treatment

1 following release from informal or voluntary admission and that
2 an order for alternative treatment or for care and custody is
3 necessary in order to ensure continuity of treatment outside a
4 mental health facility. The filing of such a petition shall not
5 prevent the recipient from requesting and obtaining a discharge
6 pursuant to subsection (b) of Section 3-300 or Section 3-404,
7 nor shall it prevent the facility director from discharging the
8 recipient pursuant to Section 3-902 of this Code.

9 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

10 (405 ILCS 5/3-800) (from Ch. 91 1/2, par. 3-800)

11 Sec. 3-800. (a) Unless otherwise indicated, court hearings
12 under this Chapter shall be held pursuant to this Article.
13 Hearings shall be held in such quarters as the court directs.
14 To the extent practical, hearings shall be held in the mental
15 health facility where the respondent is hospitalized. Any party
16 may request a change of venue or transfer to any other county
17 because of the convenience of parties or witnesses or the
18 condition of the respondent. The respondent may request to have
19 the proceedings transferred to the county of his residence.

20 (b) If the court grants a continuance on its own motion or
21 upon the motion of one of the parties, the respondent may
22 continue to be detained pending further order of the court.
23 Such continuance shall not extend beyond 15 days except to the
24 extent that continuances are requested by the respondent.

25 (c) Court hearings under this Chapter, including hearings

1 under Section 2-107.1, shall be open to the press and public
2 unless the respondent or some other party requests that they be
3 closed. The court may also indicate its intention to close a
4 hearing, including when it determines that the respondent may
5 be unable to make a reasoned decision to request that the
6 hearing be closed. A request that a hearing be closed shall be
7 granted unless there is an objection to closing the hearing by
8 a party or any other person. If an objection is made, the court
9 shall not close the hearing unless, following a hearing, it
10 determines that the patient's interest in having the hearing
11 closed is compelling. The court shall support its determination
12 with written findings of fact and conclusions of law. The court
13 shall not close the hearing if the respondent objects to its
14 closure. Whenever a court determines that a hearing shall be
15 closed, access to the records of the hearing, including but not
16 limited to transcripts and pleadings, shall be limited to the
17 parties involved in the hearing, court personnel, and any
18 person or agency providing mental health services that are the
19 subject of the hearing. Access may also be granted, however,
20 pursuant to the provisions of the Mental Health and
21 Developmental Disabilities Confidentiality Act.

22 (d) The provisions of subsection (a-5) of Section 6 of the
23 Rights of Crime Victims and Witnesses Act shall apply to the
24 initial commitment hearing, as provided under Section 5-2-4 of
25 the Unified Code of Corrections, for a respondent found not
26 guilty by reason of insanity of a violent crime in a criminal

1 proceeding and the hearing has been ordered by the court under
2 this Code to determine if the defendant is:

3 (1) in need of mental health services on an inpatient
4 basis;

5 (2) in need of mental health services on an outpatient
6 basis; or

7 (3) not in need of mental health services.

8 While the impact statement to the court allowed under this
9 subsection (d) may include the impact that the respondent's
10 criminal conduct has had upon the victim, victim's
11 representative, or victim's family or household member, the
12 court may only consider the impact statement along with all
13 other appropriate factors in determining the:

14 (i) threat of serious physical harm posed by the
15 respondent to himself or herself, or to another person;

16 (ii) location of inpatient or outpatient mental health
17 services ordered by the court, but only after complying
18 with all other applicable administrative requirements,
19 rules, and statutory requirements;

20 (iii) maximum period of commitment for inpatient
21 mental health services; and

22 (iv) conditions of release for outpatient mental
23 health services ordered by the court.

24 (e) Notwithstanding the provisions of Section 2-1009 of the
25 Code of Civil Procedure, a respondent may object to a motion
26 for voluntary dismissal and the court may refuse to grant such

1 a dismissal for good cause shown.

2 (Source: P.A. 96-117, eff. 1-1-10.)

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

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

20 If the facility director approves such a request, the
21 petitioner shall be notified of the request and of his or her
22 right to object thereto, if the petitioner has requested such
23 notification on that individual recipient. The court may
24 dismiss the pending proceedings, but shall consider any
25 objection made by ~~either~~ the petitioner, the respondent, or the

1 State's Attorney and may require proof that such dismissal is
2 in the best interest of the respondent and of the public. If
3 voluntary admission is accepted and the petition is dismissed
4 by the court, notice shall be provided to the petitioner,
5 orally and in writing, of his or her right to receive notice of
6 the recipient's discharge pursuant to Section 3-902(d).

7 (Source: P.A. 96-570, eff. 1-1-10; 96-1399, eff. 7-29-10;
8 96-1453, eff. 8-20-10.)

9 (405 ILCS 5/3-801.5)

10 Sec. 3-801.5. Agreed order for admission on an outpatient
11 basis.

12 (a) At any time before the conclusion of the hearing and
13 the entry of the court's findings, a respondent may enter into
14 an agreement to be subject to an order for admission on an
15 outpatient basis as provided for in Sections 3-811, 3-812, and
16 3-813, ~~and 3-815~~ of this Code, provided that:

17 (1) The court and the parties have been presented with
18 a written report pursuant to Section 3-810 of this Code
19 containing a recommendation for court-ordered admission on
20 an outpatient basis and setting forth in detail the
21 conditions for such an order, and the court is satisfied
22 that the proposal for admission on an outpatient basis is
23 in the best interest of the respondent 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 (3) The proposed custodian is advised of the
4 recommendation for care and custody and agrees to abide by
5 the terms of the proposed order.

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

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

15 (b) An agreed order of care and custody entered pursuant to
16 this Section may grant the custodian the authority to admit a
17 respondent to a hospital if the respondent fails to comply with
18 the conditions of the agreed order. If necessary in order to
19 obtain the hospitalization of the respondent, the custodian may
20 apply to the court for an order authorizing an officer of the
21 peace to take the respondent into custody and transport the
22 respondent to the hospital specified in the agreed order. The
23 provisions of Section 3-605 of this Code shall govern the
24 transportation of the respondent to a mental health facility,
25 except to the extent that those provisions are inconsistent
26 with this Section. However, a person admitted to a hospital

1 pursuant to powers granted under an agreed order for care and
2 custody shall be treated as a voluntary recipient pursuant to
3 Article IV of this Chapter and shall be advised immediately of
4 his or her right to request a discharge pursuant to Section
5 3-403 of this Code.

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

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

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

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

20 (g) An order entered under this Section may be extended
21 with the agreement of the parties for additional 180-day
22 periods.

23 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10.)

24 Section 10. The Mental Health and Developmental
25 Disabilities Confidentiality Act is amended by changing

1 Section 11 as follows:

2 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

3 Sec. 11. Disclosure of records and communications. Records
4 and communications may be disclosed:

5 (i) in accordance with the provisions of the Abused and
6 Neglected Child Reporting Act, subsection (u) of Section 5
7 of the Children and Family Services Act, or Section 7.4 of
8 the Child Care Act of 1969;

9 (ii) when, and to the extent, a therapist, in his or
10 her sole discretion, determines that disclosure is
11 necessary to initiate or continue civil commitment or
12 involuntary treatment proceedings under the laws of this
13 State or to otherwise protect the recipient or other person
14 against a clear, imminent risk of serious physical or
15 mental injury or disease or death being inflicted upon the
16 recipient or by the recipient on himself or another;

17 (iii) when, and to the extent disclosure is, in the
18 sole discretion of the therapist, necessary to the
19 provision of emergency medical care to a recipient who is
20 unable to assert or waive his or her rights hereunder;

21 (iv) when disclosure is necessary to collect sums or
22 receive third party payment representing charges for
23 mental health or developmental disabilities services
24 provided by a therapist or agency to a recipient under
25 Chapter V of the Mental Health and Developmental

1 Disabilities Code or to transfer debts under the
2 Uncollected State Claims Act; however, disclosure shall be
3 limited to information needed to pursue collection, and the
4 information so disclosed shall not be used for any other
5 purposes nor shall it be redisclosed except in connection
6 with collection activities;

7 (v) when requested by a family member, the Department
8 of Human Services may assist in the location of the
9 interment site of a deceased recipient who is interred in a
10 cemetery established under Section 26 ~~100-26~~ of the Mental
11 Health and Developmental Disabilities Administrative Act;

12 (vi) in judicial proceedings under Article VIII of
13 Chapter III and Article V of Chapter IV of the Mental
14 Health and Developmental Disabilities Code and proceedings
15 and investigations preliminary thereto, to the State's
16 Attorney for the county or residence of a person who is the
17 subject of such proceedings, or in which the person is
18 found, or in which the facility is located, to the attorney
19 representing the petitioner in the judicial proceedings,
20 to the attorney representing the recipient in the judicial
21 proceedings, to any person or agency providing mental
22 health services that are the subject of the proceedings and
23 to that person's or agency's attorney, to any court
24 personnel, including but not limited to judges and circuit
25 court clerks, and to a guardian ad litem if one has been
26 appointed by the court. Information, ~~provided that the~~

1 ~~information so~~ disclosed under this subsection shall not be
2 utilized for any other purpose nor be redisclosed except in
3 connection with the proceedings or investigations. ~~+~~ Copies
4 of any records provided to counsel for a petitioner shall
5 be deleted or destroyed at the end of the proceedings and
6 counsel for petitioner shall certify to the court in
7 writing that he or she has done so. At the request of a
8 recipient or his or her counsel, the court shall issue a
9 protective order insuring the confidentiality of any
10 records or communications provided to counsel for a
11 petitioner;

12 (vii) when, and to the extent disclosure is necessary
13 to comply with the requirements of the Census Bureau in
14 taking the federal Decennial Census;

15 (viii) when, and to the extent, in the therapist's sole
16 discretion, disclosure is necessary to warn or protect a
17 specific individual against whom a recipient has made a
18 specific threat of violence where there exists a
19 therapist-recipient relationship or a special
20 recipient-individual relationship;

21 (ix) in accordance with the Sex Offender Registration
22 Act;

23 (x) in accordance with the Rights of Crime Victims and
24 Witnesses Act;

25 (xi) in accordance with Section 6 of the Abused and
26 Neglected Long Term Care Facility Residents Reporting Act;

1 and

2 (xii) in accordance with Section 55 of the Abuse of
3 Adults with Disabilities Intervention Act.

4 Any person, institution, or agency, under this Act,
5 participating in good faith in the making of a report under the
6 Abused and Neglected Child Reporting Act or in the disclosure
7 of records and communications under this Section, shall have
8 immunity from any liability, civil, criminal or otherwise, that
9 might result by reason of such action. For the purpose of any
10 proceeding, civil or criminal, arising out of a report or
11 disclosure under this Section, the good faith of any person,
12 institution, or agency so reporting or disclosing shall be
13 presumed.

14 (Source: P.A. 95-331, eff. 8-21-07; 96-466, eff. 8-14-09;
15 revised 9-16-10.)

16 Section 15. The Probate Act of 1975 is amended by changing
17 Section 11a-10 as follows:

18 (755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

19 Sec. 11a-10. Procedures preliminary to hearing.

20 (a) Upon the filing of a petition pursuant to Section
21 11a-8, the court shall set a date and place for hearing to take
22 place within 30 days. The court shall appoint a guardian ad
23 litem to report to the court concerning the respondent's best
24 interests consistent with the provisions of this Section,

1 except that the appointment of a guardian ad litem shall not be
2 required when the court determines that such appointment is not
3 necessary for the protection of the respondent or a reasonably
4 informed decision on the petition. If the guardian ad litem is
5 not a licensed attorney, he or she shall be qualified, by
6 training or experience, to work with or advocate for the
7 developmentally disabled, mentally ill, physically disabled,
8 the elderly, or persons disabled because of mental
9 deterioration, depending on the type of disability that is
10 alleged in the petition. The court may allow the guardian ad
11 litem reasonable compensation. The guardian ad litem may
12 consult with a person who by training or experience is
13 qualified to work with persons with a developmental disability,
14 persons with mental illness, or physically disabled persons, or
15 persons disabled because of mental deterioration, depending on
16 the type of disability that is alleged. The guardian ad litem
17 shall personally observe the respondent prior to the hearing
18 and shall inform him orally and in writing of the contents of
19 the petition and of his rights under Section 11a-11. The
20 guardian ad litem shall also attempt to elicit the respondent's
21 position concerning the adjudication of disability, the
22 proposed guardian, a proposed change in residential placement,
23 changes in care that might result from the guardianship, and
24 other areas of inquiry deemed appropriate by the court.
25 Notwithstanding any provision in the Mental Health and
26 Developmental Disabilities Confidentiality Act or any other

1 law, a guardian ad litem shall have the right to inspect and
2 copy any medical or mental health record of the respondent
3 which the guardian ad litem deems necessary, provided that the
4 information so disclosed shall not be utilized for any other
5 purpose nor be redisclosed except in connection with the
6 proceedings. At or before the hearing, the guardian ad litem
7 shall file a written report detailing his or her observations
8 of the respondent, the responses of the respondent to any of
9 the inquires detailed in this Section, the opinion of the
10 guardian ad litem or other professionals with whom the guardian
11 ad litem consulted concerning the appropriateness of
12 guardianship, and any other material issue discovered by the
13 guardian ad litem. The guardian ad litem shall appear at the
14 hearing and testify as to any issues presented in his or her
15 report.

16 (b) The court (1) may appoint counsel for the respondent,
17 if the court finds that the interests of the respondent will be
18 best served by the appointment, and (2) shall appoint counsel
19 upon respondent's request or if the respondent takes a position
20 adverse to that of the guardian ad litem. The respondent shall
21 be permitted to obtain the appointment of counsel either at the
22 hearing or by any written or oral request communicated to the
23 court prior to the hearing. The summons shall inform the
24 respondent of this right to obtain appointed counsel. The court
25 may allow counsel for the respondent reasonable compensation.

26 (c) If the respondent is unable to pay the fee of the

1 guardian ad litem or appointed counsel, or both, the court may
2 enter an order for the petitioner to pay all such fees or such
3 amounts as the respondent or the respondent's estate may be
4 unable to pay. However, in cases where the Office of State
5 Guardian is the petitioner, consistent with Section 30 of the
6 Guardianship and Advocacy Act, where an elder abuse provider
7 agency is the petitioner, pursuant to Section 9 of the Elder
8 Abuse and Neglect Act, or where the Department of Human
9 Services Office of Inspector General is the petitioner,
10 consistent with Section 45 of the Abuse of Adults with
11 Disabilities Intervention Act, no guardian ad litem or legal
12 fees shall be assessed against the Office of State Guardian,
13 the elder abuse provider agency, or the Department of Human
14 Services Office of Inspector General.

15 (d) The hearing may be held at such convenient place as the
16 court directs, including at a facility in which the respondent
17 resides.

18 (e) Unless he is the petitioner, the respondent shall be
19 personally served with a copy of the petition and a summons not
20 less than 14 days before the hearing. The summons shall be
21 printed in large, bold type and shall include the following
22 notice:

23 NOTICE OF RIGHTS OF RESPONDENT

24 You have been named as a respondent in a guardianship
25 petition asking that you be declared a disabled person. If the
26 court grants the petition, a guardian will be appointed for

1 you. A copy of the guardianship petition is attached for your
2 convenience.

3 The date and time of the hearing are:

4 The place where the hearing will occur is:

5 The Judge's name and phone number is:

6 If a guardian is appointed for you, the guardian may be
7 given the right to make all important personal decisions for
8 you, such as where you may live, what medical treatment you may
9 receive, what places you may visit, and who may visit you. A
10 guardian may also be given the right to control and manage your
11 money and other property, including your home, if you own one.
12 You may lose the right to make these decisions for yourself.

13 You have the following legal rights:

14 (1) You have the right to be present at the court
15 hearing.

16 (2) You have the right to be represented by a lawyer,
17 either one that you retain, or one appointed by the Judge.

18 (3) You have the right to ask for a jury of six persons
19 to hear your case.

20 (4) You have the right to present evidence to the court
21 and to confront and cross-examine witnesses.

22 (5) You have the right to ask the Judge to appoint an
23 independent expert to examine you and give an opinion about
24 your need for a guardian.

25 (6) You have the right to ask that the court hearing be
26 closed to the public.

1 (7) You have the right to tell the court whom you
2 prefer to have for your guardian.

3 You do not have to attend the court hearing if you do not
4 want to be there. If you do not attend, the Judge may appoint a
5 guardian if the Judge finds that a guardian would be of benefit
6 to you. The hearing will not be postponed or canceled if you do
7 not attend.

8 IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO
9 NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE
10 PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN.
11 IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER
12 PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND
13 TELL THE JUDGE.

14 Service of summons and the petition may be made by a
15 private person 18 years of age or over who is not a party to the
16 action.

17 (f) Notice of the time and place of the hearing shall be
18 given by the petitioner by mail or in person to those persons,
19 including the proposed guardian, whose names and addresses
20 appear in the petition and who do not waive notice, not less
21 than 14 days before the hearing.

22 (Source: P.A. 95-373, eff. 8-23-07; 96-1052, eff. 7-14-10.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.