



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2936

Introduced 2/23/2011, by

SYNOPSIS AS INTRODUCED:

405 ILCS 5/3-811
405 ILCS 5/3-909

from Ch. 91 1/2, par. 3-811
from Ch. 91 1/2, par. 3-909

Amends the Mental Health and Developmental Disabilities Code. Provides that a transferring facility remains subject to the federal Emergency Medical Transport and Active Labor Act (EMTALA) when implementing a court order for the involuntary admission of a person on an inpatient basis or a court order for the transfer of a mental health patient to an alternative facility or program of alternative treatment. Requires a transferring facility to satisfy certain duties prior to implementing the order and in addition to those duties provided under the EMTALA. Effective immediately.

LRB097 02907 KTG 43126 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 3-811 and
6 3-909 as follows:

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, the court may order the respondent to undergo
21 a program of alternative treatment; or the court may place the
22 respondent in the care and custody of a relative or other
23 person willing and able to properly care for him or her. The

1 court shall order the least restrictive alternative for
2 treatment which is appropriate.

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

8 (c) An order that a person is found subject to involuntary
9 admission on an inpatient basis does not eliminate any
10 obligations under the federal Emergency Medical Transport and
11 Active Labor Act (EMTALA) of the transferring facility toward
12 the receiving facility. In addition to the obligations under
13 EMTALA, before implementing an order, the transferring
14 facility shall notify the receiving facility of the recipient,
15 obtain medical clearance for the recipient, and ensure that the
16 receiving facility is able to manage the transferred recipient.

17 (Source: P.A. 96-570, eff. 1-1-10; 96-1399, eff. 7-29-10;
18 96-1453, eff. 8-20-10.)

19 (405 ILCS 5/3-909) (from Ch. 91 1/2, par. 3-909)

20 Sec. 3-909. Alternative treatment. Any recipient
21 hospitalized or admitted to alternative treatment or care and
22 custody under Article VIII of this Chapter may at any time
23 petition the court for transfer to a different facility or
24 program of alternative treatment, to care and custody, or to
25 the care and custody of a different person. His attorney,

1 guardian, custodian, or responsible relative may file such a
2 petition on his behalf. If the recipient is in a private
3 facility, the facility may also petition for transfer.
4 Recipients in private facilities or United States Veterans
5 Administration facilities may petition for transfer to a mental
6 health facility designated by the Department. Recipients may
7 petition for transfer to a program of alternative treatment, or
8 to care and custody. Recipients in private facilities may also
9 petition for transfer to United States Veterans Administration
10 facilities. Recipients in United States Veterans
11 Administration facilities may also petition for transfer to
12 private facilities. Recipients in Department facilities may
13 petition for transfer to a private mental health facility, a
14 United States Veterans Administration facility, a program of
15 alternative treatment, or to care and custody. Admission to a
16 United States Veterans Administration facility shall be
17 governed by Article X of this Chapter 3. No transfers between
18 Department facilities or between units of the same facility may
19 be ordered under this Section. An order for hospitalization
20 shall not be entered under this Section if the original order
21 did not authorize hospitalization unless a hearing is held
22 pursuant to Article VIII of this Chapter. An order of transfer
23 entered under this Section does not eliminate any obligations
24 under the federal Emergency Medical Transport and Active Labor
25 Act (EMTALA) of the transferring facility toward the receiving
26 facility. In addition to the obligations under EMTALA, before

1 implementing an order of transfer, the transferring facility
2 shall notify the receiving facility of the recipient, obtain
3 medical clearance for the recipient, and ensure that the
4 receiving facility is able to manage the transferred recipient.

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

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