



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5586

Introduced 2/15/2012, by Rep. Kimberly du Buclet

#### SYNOPSIS AS INTRODUCED:

740 ILCS 110/4

from Ch. 91 1/2, par. 804

Amends the Mental Health and Developmental Disabilities Confidentiality Act. Authorizes the inspection and copying of mental health services records of a recipient of such services by a law enforcement officer who has lawfully arrested the recipient, if the officer has (i) a reasonable suspicion that the recipient is suffering from mental illness and (ii) a reasonable belief that the recipient may benefit from treatment in a mental health facility rather than placement in a correctional institution, jail, juvenile correctional facility, or juvenile detention facility. Provides that the information disclosable under this provision is limited to whether the recipient is receiving mental health services from a mental health facility or has received such services within the preceding 6 months and may not be redisclosed by the law enforcement officer except as provided by law.

LRB097 18283 AJO 63509 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Mental Health and Developmental  
5 Disabilities Confidentiality Act is amended by changing  
6 Section 4 as follows:

7 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

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

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

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

14 (3) the parent or guardian of a recipient who is at  
15 least 12 but under 18 years, if the recipient is informed  
16 and does not object or if the therapist does not find that  
17 there are compelling reasons for denying the access. The  
18 parent or guardian who is denied access by either the  
19 recipient or the therapist may petition a court for access  
20 to the record. Nothing in this paragraph is intended to  
21 prohibit the parent or guardian of a recipient who is at  
22 least 12 but under 18 years from requesting and receiving  
23 the following information: current physical and mental

1 condition, diagnosis, treatment needs, services provided,  
2 and services needed, including medication, if any;

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

5 (5) an attorney or guardian ad litem who represents a  
6 minor 12 years of age or older in any judicial or  
7 administrative proceeding, provided that the court or  
8 administrative hearing officer has entered an order  
9 granting the attorney this right;

10 (6) an agent appointed under a recipient's power of  
11 attorney for health care or for property, when the power of  
12 attorney authorizes the access;

13 (7) an attorney-in-fact appointed under the Mental  
14 Health Treatment Preference Declaration Act; ~~or~~

15 (8) any person in whose care and custody the recipient  
16 has been placed pursuant to Section 3-811 of the Mental  
17 Health and Developmental Disabilities Code; or -

18 (9) a law enforcement officer who has lawfully arrested  
19 the recipient, if the officer has (i) a reasonable  
20 suspicion that the recipient is suffering from mental  
21 illness and (ii) a reasonable belief that the recipient may  
22 benefit from treatment in a mental health facility as  
23 defined in the Mental Health and Developmental  
24 Disabilities Code rather than placement in a correctional  
25 institution, jail, juvenile correctional facility, or  
26 juvenile detention facility; the information disclosable

1       under this paragraph (9) is limited to whether the  
2       recipient is receiving mental health services from a mental  
3       health facility or has received such services within the  
4       preceding 6 months and may not be redisclosed by the law  
5       enforcement officer except as provided by law.

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

23      (c) Any person entitled to access to a record under this  
24      Section may submit a written statement concerning any disputed  
25      or new information, which statement shall be entered into the  
26      record. Whenever any disputed part of a record is disclosed,

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

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

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