



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0461

by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

405 ILCS 5/6-103.2 rep.
740 ILCS 110/12

from Ch. 91 1/2, par. 812

Amends the Mental Health and Developmental Disabilities Code. Repeals the Section providing that if a person 14 years or older is determined to be a person with a developmental disability by a physician, clinical psychologist, or qualified examiner, the person making the determination shall notify the Department of Health and Human Services within 7 days, who then shall notify the Department of State Police, if appropriate, to determine continuing eligibility under the Firearm Owners Identification Card Act. Makes a conforming change in the Mental Health and Developmental Disabilities Confidentiality Act.

LRB100 05570 HEP 15584 b

1 AN ACT concerning disclosures for firearm possession
2 eligibility.

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

5 (405 ILCS 5/6-103.2 rep.)

6 Section 5. The Mental Health and Developmental
7 Disabilities Code is amended by repealing Section 6-103.2.

8 Section 10. The Mental Health and Developmental
9 Disabilities Confidentiality Act is amended by changing
10 Section 12 as follows:

11 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

12 Sec. 12. (a) If the United States Secret Service or the
13 Department of State Police requests information from a mental
14 health or developmental disability facility, as defined in
15 Section 1-107 and 1-114 of the Mental Health and Developmental
16 Disabilities Code, relating to a specific recipient and the
17 facility director determines that disclosure of such
18 information may be necessary to protect the life of, or to
19 prevent the infliction of great bodily harm to, a public
20 official, or a person under the protection of the United States
21 Secret Service, only the following information may be
22 disclosed: the recipient's name, address, and age and the date

1 of any admission to or discharge from a facility; and any
2 information which would indicate whether or not the recipient
3 has a history of violence or presents a danger of violence to
4 the person under protection. Any information so disclosed shall
5 be used for investigative purposes only and shall not be
6 publicly disseminated. Any person participating in good faith
7 in the disclosure of such information in accordance with this
8 provision shall have immunity from any liability, civil,
9 criminal or otherwise, if such information is disclosed relying
10 upon the representation of an officer of the United States
11 Secret Service or the Department of State Police that a person
12 is under the protection of the United States Secret Service or
13 is a public official.

14 For the purpose of this subsection (a), the term "public
15 official" means the Governor, Lieutenant Governor, Attorney
16 General, Secretary of State, State Comptroller, State
17 Treasurer, member of the General Assembly, member of the United
18 States Congress, Judge of the United States as defined in 28
19 U.S.C. 451, Justice of the United States as defined in 28
20 U.S.C. 451, United States Magistrate Judge as defined in 28
21 U.S.C. 639, Bankruptcy Judge appointed under 28 U.S.C. 152, or
22 Supreme, Appellate, Circuit, or Associate Judge of the State of
23 Illinois. The term shall also include the spouse, child or
24 children of a public official.

25 (b) The Department of Human Services (acting as successor
26 to the Department of Mental Health and Developmental

1 Disabilities) and all public or private hospitals and mental
2 health facilities are required, as hereafter described in this
3 subsection, to furnish the Department of State Police only such
4 information as may be required for the sole purpose of
5 determining whether an individual who may be or may have been a
6 patient is disqualified because of that status from receiving
7 or retaining a Firearm Owner's Identification Card or falls
8 within the federal prohibitors under subsection (e), (f), (g),
9 (r), (s), or (t) of Section 8 of the Firearm Owners
10 Identification Card Act, or falls within the federal
11 prohibitors in 18 U.S.C. 922(g) and (n). All physicians,
12 clinical psychologists, or qualified examiners at public or
13 private mental health facilities or parts thereof as defined in
14 this subsection shall, in the form and manner required by the
15 Department, provide notice directly to the Department of Human
16 Services, or to his or her employer who shall then report to
17 the Department, within 24 hours after determining that a person
18 poses a clear and present danger to himself, herself, or
19 others, ~~or within 7 days after a person 14 years or older is~~
20 ~~determined to be a person with a developmental disability by a~~
21 ~~physician, clinical psychologist, or qualified examiner as~~
22 ~~described in Section 1.1 of the Firearm Owners Identification~~
23 ~~Card Act.~~ If a person is a patient as described in clause (1)
24 of the definition of "patient" in Section 1.1 of the Firearm
25 Owners Identification Card Act, this information shall be
26 furnished within 7 days after admission to a public or private

1 hospital or mental health facility or the provision of
2 services. Any such information disclosed under this subsection
3 shall remain privileged and confidential, and shall not be
4 redisclosed, except as required by subsection (e) of Section
5 3.1 of the Firearm Owners Identification Card Act, nor utilized
6 for any other purpose. The method of requiring the providing of
7 such information shall guarantee that no information is
8 released beyond what is necessary for this purpose. In
9 addition, the information disclosed shall be provided by the
10 Department within the time period established by Section 24-3
11 of the Criminal Code of 2012 regarding the delivery of
12 firearms. The method used shall be sufficient to provide the
13 necessary information within the prescribed time period, which
14 may include periodically providing lists to the Department of
15 Human Services or any public or private hospital or mental
16 health facility of Firearm Owner's Identification Card
17 applicants on which the Department or hospital shall indicate
18 the identities of those individuals who are to its knowledge
19 disqualified from having a Firearm Owner's Identification Card
20 for reasons described herein. The Department may provide for a
21 centralized source of information for the State on this subject
22 under its jurisdiction. The identity of the person reporting
23 under this subsection shall not be disclosed to the subject of
24 the report. For the purposes of this subsection, the physician,
25 clinical psychologist, or qualified examiner making the
26 determination and his or her employer shall not be held

1 criminally, civilly, or professionally liable for making or not
2 making the notification required under this subsection, except
3 for willful or wanton misconduct.

4 Any person, institution, or agency, under this Act,
5 participating in good faith in the reporting or disclosure of
6 records and communications otherwise in accordance with this
7 provision or with rules, regulations or guidelines issued by
8 the Department shall have immunity from any liability, civil,
9 criminal or otherwise, that might result by reason of the
10 action. For the purpose of any proceeding, civil or criminal,
11 arising out of a report or disclosure in accordance with this
12 provision, the good faith of any person, institution, or agency
13 so reporting or disclosing shall be presumed. The full extent
14 of the immunity provided in this subsection (b) shall apply to
15 any person, institution or agency that fails to make a report
16 or disclosure in the good faith belief that the report or
17 disclosure would violate federal regulations governing the
18 confidentiality of alcohol and drug abuse patient records
19 implementing 42 U.S.C. 290dd-3 and 290ee-3.

20 For purposes of this subsection (b) only, the following
21 terms shall have the meaning prescribed:

22 (1) (Blank).

23 (1.3) "Clear and present danger" has the meaning as
24 defined in Section 1.1 of the Firearm Owners Identification
25 Card Act.

26 (1.5) (Blank). ~~"Person with a developmental~~

1 ~~disability" has the meaning as defined in Section 1.1 of~~
2 ~~the Firearm Owners Identification Card Act.~~

3 (2) "Patient" has the meaning as defined in Section 1.1
4 of the Firearm Owners Identification Card Act.

5 (3) "Mental health facility" has the meaning as defined
6 in Section 1.1 of the Firearm Owners Identification Card
7 Act.

8 (c) Upon the request of a peace officer who takes a person
9 into custody and transports such person to a mental health or
10 developmental disability facility pursuant to Section 3-606 or
11 4-404 of the Mental Health and Developmental Disabilities Code
12 or who transports a person from such facility, a facility
13 director shall furnish said peace officer the name, address,
14 age and name of the nearest relative of the person transported
15 to or from the mental health or developmental disability
16 facility. In no case shall the facility director disclose to
17 the peace officer any information relating to the diagnosis,
18 treatment or evaluation of the person's mental or physical
19 health.

20 For the purposes of this subsection (c), the terms "mental
21 health or developmental disability facility", "peace officer"
22 and "facility director" shall have the meanings ascribed to
23 them in the Mental Health and Developmental Disabilities Code.

24 (d) Upon the request of a peace officer or prosecuting
25 authority who is conducting a bona fide investigation of a
26 criminal offense, or attempting to apprehend a fugitive from

1 justice, a facility director may disclose whether a person is
2 present at the facility. Upon request of a peace officer or
3 prosecuting authority who has a valid forcible felony warrant
4 issued, a facility director shall disclose: (1) whether the
5 person who is the subject of the warrant is present at the
6 facility and (2) the date of that person's discharge or future
7 discharge from the facility. The requesting peace officer or
8 prosecuting authority must furnish a case number and the
9 purpose of the investigation or an outstanding arrest warrant
10 at the time of the request. Any person, institution, or agency
11 participating in good faith in disclosing such information in
12 accordance with this subsection (d) is immune from any
13 liability, civil, criminal or otherwise, that might result by
14 reason of the action.

15 (Source: P.A. 98-63, eff. 7-9-13; 99-29, eff. 7-10-15; 99-143,
16 eff. 7-27-15; 99-642, eff. 7-28-16.)