



Rep. Litesa E. Wallace

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FISCAL NOTE ACT  
MAY APPLY

10000HB3709ham001

LRB100 10929 RLC 24060 a

1 AMENDMENT TO HOUSE BILL 3709

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3709 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 Section 3-501 as  
6 follows:

7 (405 ILCS 5/3-501) (from Ch. 91 1/2, par. 3-501)

8 Sec. 3-501. Minor 12 years of age or older request to  
9 receive counseling services or psychotherapy on an outpatient  
10 basis.

11 (a) Any minor 12 years of age or older may request and  
12 receive counseling services or psychotherapy on an outpatient  
13 basis that are provided by, or under the supervision of, a  
14 licensed service provider. The consent of the minor's ~~his~~  
15 parent, guardian or person in loco parentis shall not be  
16 initially necessary to authorize outpatient counseling or

1 psychotherapy. ~~The minor's parent, guardian or person in loco~~  
2 ~~parentis shall not be informed of such counseling or~~  
3 ~~psychotherapy without the consent of the minor unless the~~  
4 ~~facility director believes such disclosure is necessary. If the~~  
5 ~~facility director intends to disclose the fact of counseling or~~  
6 ~~psychotherapy, the minor shall be so informed.~~ However, until  
7 the consent of the minor's parent, guardian, or person in loco  
8 parentis has been obtained, outpatient counseling or  
9 psychotherapy provided to a minor under the age of 17 shall be  
10 initially limited to not more than 8 90-minute sessions 5  
11 sessions, a session lasting not more than 45 minutes. The  
12 service provider shall consider the factors contained in  
13 subsection (a-1) of this Section throughout the therapeutic  
14 process to determine, through consultation with the minor,  
15 whether attempting to obtain the consent of a parent, guardian,  
16 or person in loco parentis would be detrimental to the minor's  
17 well-being. No later than the eighth session, the service  
18 provider shall determine and share with the minor the service  
19 provider's decision as described below:

20 (1) If the service provider finds that attempting to  
21 obtain consent would not be detrimental to the minor's  
22 well-being, the provider shall notify the minor that the  
23 consent of a parent, guardian, or person in loco parentis  
24 is required.

25 (2) If the minor does not permit the service provider  
26 to notify the parent, guardian, or person in loco parentis

1       for the purpose of consent after the eighth session the  
2       service provider shall discontinue counseling services and  
3       shall not notify the parent, guardian, or person in loco  
4       parentis about the treatment.

5       (3) If the minor permits the service provider to notify  
6       the parent, guardian, or person in loco parentis for the  
7       purpose of consent, without discontinuing treatment, the  
8       service provider shall attempt to obtain consent. The  
9       service provider shall document each attempt to obtain  
10       consent in the minor's clinical record. The service  
11       provider may continue to provide counseling services or  
12       psychotherapy if:

13               (A) the service provider has made at least 2  
14               unsuccessful attempts to contact the minor's parent,  
15               guardian, or person in loco parentis to obtain consent;  
16               and

17               (B) the service provider has obtained the minor's  
18               written consent.

19       (4) If after the eighth session the service provider of  
20       counseling services or psychotherapy determines that  
21       obtaining consent would be detrimental to the minor's  
22       well-being, the service provider shall consult with his or  
23       her supervisor when possible to review and authorize the  
24       determination under subsection (a) of this Section. The  
25       service provider shall document the basis for the  
26       determination in the minor's clinical record and may then

1       accept the minor's written consent to continue to provide  
2       counseling services or psychotherapy without also  
3       obtaining the consent of a parent, guardian, or person in  
4       loco parentis.

5           (5) If the minor continues to receive counseling or  
6       psychotherapy services without the consent of a parent,  
7       guardian, or person in loco parentis beyond 8 sessions, the  
8       service provider shall evaluate, in consultation with his  
9       or her supervisor when possible, his or her determination  
10       under this subsection (a), and review the determination  
11       every 60 days until treatment ends or the minor reaches age  
12       17.

13           (6) When counseling services or psychotherapy are  
14       related to allegations of neglect, sexual abuse, or mental  
15       or physical abuse by the minor's parent, guardian, or  
16       person in loco parentis, obtaining consent of that parent,  
17       guardian, or person in loco parentis shall be presumed to  
18       be detrimental to the minor's well-being.

19           (a-1) Each of the following factors must be present in  
20       order for the service provider to find that obtaining the  
21       consent of a parent, guardian, or person in loco parentis would  
22       be detrimental to the minor's well-being:

23           (1) requiring the consent or notification of a parent  
24       or guardian would cause the minor to reject the treatment;

25           (2) the failure to provide the treatment would be  
26       detrimental to the minor's well-being;

1           (3) the minor has knowingly and voluntarily sought the  
2           treatment; and

3           (4) in the opinion of the service provider, the minor  
4           is mature enough to participate in treatment productively.

5           (a-2) The minor's parent, guardian, or person in loco  
6           parentis shall not be informed of the counseling or  
7           psychotherapy without the written consent of the minor unless  
8           the service provider believes the disclosure is necessary. If  
9           the facility director or service provider intends to disclose  
10           the fact of counseling or psychotherapy, the minor shall be so  
11           informed. Under the Mental Health and Developmental  
12           Disabilities Confidentiality Act, the facility director, his  
13           or her designee, or the service provider shall not allow the  
14           minor's parent or guardian, upon request, to inspect or copy  
15           the minor's record or any part of the record if the service  
16           provider finds that there are compelling reasons for denying  
17           the access. Nothing in this Section shall be interpreted to  
18           limit a minor's privacy and confidentiality protections under  
19           State law.

20           (b) The minor's parent, guardian or person in loco parentis  
21 shall not be liable for the out-of-pocket costs, including  
22 co-payments, deductibles, or co-insurance for ~~costs~~ of  
23 outpatient counseling or psychotherapy which is received by the  
24 minor without the consent of the minor's parent, guardian, or  
25 person in loco parentis.

26           (c) Counseling services or psychotherapy provided under

1 this Section shall be provided in compliance with the  
2 Professional Counselor and Clinical Professional Counselor  
3 Licensing and Practice Act and the Clinical Psychologist  
4 Licensing Act.

5 (Source: P.A. 86-922.)".