



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2781

Introduced 1/20/2006, by Sen. Debbie DeFrancesco Halvorson

SYNOPSIS AS INTRODUCED:

20 ILCS 2435/55
740 ILCS 110/11

from Ch. 23, par. 3395-55
from Ch. 91 1/2, par. 811

Amends the Abuse of Adults with Disabilities Intervention Act; provides that a person making a report of alleged abuse, neglect, or exploitation of an adult with disabilities, functioning in the person's capacity as a licensed professional, may be entitled to the result of the report and of the investigative assessment as authorized by the Inspector General. Amends the Mental Health and Developmental Disabilities Confidentiality Act; provides for the disclosure of mental health or developmental disabilities service records and communications in accordance with the Abused and Neglected Long Term Care Facility Residents Reporting Act and the Abuse of Adults with Disabilities Intervention Act. Effective immediately.

LRB094 15531 DRJ 50730 b

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 Abuse of Adults with Disabilities
5 Intervention Act is amended by changing Section 55 as follows:

6 (20 ILCS 2435/55) (from Ch. 23, par. 3395-55)

7 Sec. 55. Access to records. All records concerning reports
8 of abuse, neglect, or exploitation of an adult with
9 disabilities and all records generated as a result of the
10 reports shall be confidential and shall not be disclosed except
11 as specifically authorized by this Act or other applicable law.
12 A person making a report of alleged abuse, neglect, or
13 exploitation functioning in his or her capacity as a licensed
14 professional may be entitled to the result of the report and of
15 the investigative assessment as authorized by the Inspector
16 General. Access to the records, but not access to the identity
17 of the person or persons making a report of alleged abuse,
18 neglect, or exploitation as contained in the records, shall be
19 allowed to the following persons and for the following
20 purposes:

21 (a) Adults with Disabilities Abuse Project staff in the
22 furtherance of their responsibilities under this Act;

23 (b) A law enforcement agency investigating alleged or
24 suspected abuse, neglect, or exploitation of an adult with
25 disabilities;

26 (c) An adult with disabilities reported to be abused,
27 neglected, or exploited, or the guardian of an adult with
28 disabilities unless the guardian is the alleged perpetrator of
29 the abuse, neglect, or exploitation;

30 (d) A court, upon its finding that access to the records
31 may be necessary for the determination of an issue before the
32 court. However, the access shall be limited to an in camera

1 inspection of the records, unless the court determines that
2 disclosure of the information contained therein is necessary
3 for the resolution of an issue then pending before it;

4 (e) A grand jury, upon its determination that access to the
5 records is necessary to the conduct of its official business;

6 (f) Any person authorized by the Secretary, in writing, for
7 audit or bona fide research purposes;

8 (g) A coroner or medical examiner who has reason to believe
9 that abuse or neglect contributed to or resulted in the death
10 of an adult with disabilities;

11 (h) The agency designated pursuant to the Protection and
12 Advocacy for Developmentally Disabled Persons Act and the
13 Protection and Advocacy for Mentally Ill Persons Act.

14 (Source: P.A. 91-671, eff. 7-1-00.)

15 Section 10. The Mental Health and Developmental
16 Disabilities Confidentiality Act is amended by changing
17 Section 11 as follows:

18 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

19 Sec. 11. Disclosure of records and communications. Records
20 and communications may be disclosed:

21 (i) in accordance with the provisions of the Abused and
22 Neglected Child Reporting Act;

23 (ii) when, and to the extent, a therapist, in his or
24 her sole discretion, determines that disclosure is
25 necessary to initiate or continue civil commitment
26 proceedings under the laws of this State or to otherwise
27 protect the recipient or other person against a clear,
28 imminent risk of serious physical or mental injury or
29 disease or death being inflicted upon the recipient or by
30 the recipient on himself or another;

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

1 (iv) when disclosure is necessary to collect sums or
2 receive third party payment representing charges for
3 mental health or developmental disabilities services
4 provided by a therapist or agency to a recipient under
5 Chapter V of the Mental Health and Developmental
6 Disabilities Code or to transfer debts under the
7 Uncollected State Claims Act; however, disclosure shall be
8 limited to information needed to pursue collection, and the
9 information so disclosed shall not be used for any other
10 purposes nor shall it be redisclosed except in connection
11 with collection activities;

12 (v) when requested by a family member, the Department
13 of Human Services may assist in the location of the
14 interment site of a deceased recipient who is interred in a
15 cemetery established under Section 100-26 of the Mental
16 Health and Developmental Disabilities Administrative Act;

17 (vi) in judicial proceedings under Article VIII of
18 Chapter III and Article V of Chapter IV of the Mental
19 Health and Developmental Disabilities Code and proceedings
20 and investigations preliminary thereto, to the State's
21 Attorney for the county or residence of a person who is the
22 subject of such proceedings, or in which the person is
23 found, or in which the facility is located, to the attorney
24 representing the recipient in the judicial proceedings, to
25 any person or agency providing mental health services that
26 are the subject of the proceedings and to that person's or
27 agency's attorney, to any court personnel, including but
28 not limited to judges and circuit court clerks, and to a
29 guardian ad litem if one has been appointed by the court,
30 provided that the information so disclosed shall not be
31 utilized for any other purpose nor be redisclosed except in
32 connection with the proceedings or investigations;

33 (vii) when, and to the extent disclosure is necessary
34 to comply with the requirements of the Census Bureau in
35 taking the federal Decennial Census;

36 (viii) when, and to the extent, in the therapist's sole

1 discretion, disclosure is necessary to warn or protect a
2 specific individual against whom a recipient has made a
3 specific threat of violence where there exists a
4 therapist-recipient relationship or a special
5 recipient-individual relationship;

6 (ix) in accordance with the Sex Offender Registration
7 Act; ~~and~~

8 (x) in accordance with the Rights of Crime Victims and
9 Witnesses Act;~~.~~

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

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

15 Any person, institution, or agency, under this Act,
16 participating in good faith in the making of a report under the
17 Abused and Neglected Child Reporting Act or in the disclosure
18 of records and communications under this Section, shall have
19 immunity from any liability, civil, criminal or otherwise, that
20 might result by reason of such action. For the purpose of any
21 proceeding, civil or criminal, arising out of a report or
22 disclosure under this Section, the good faith of any person,
23 institution, or agency so reporting or disclosing shall be
24 presumed.

25 (Source: P.A. 90-423, eff. 8-15-97; 90-538, eff. 12-1-97;
26 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.