



Disability Services Committee

Filed: 3/12/2008

FISCAL NOTE ACT
MAY APPLY

09500HB5574ham001

LRB095 16884 AJ0 46807 a

1 AMENDMENT TO HOUSE BILL 5574

2 AMENDMENT NO. _____. Amend House Bill 5574, on page 1, by
3 inserting after line 3 the following:

4 "Section 3. The Mental Health and Developmental
5 Disabilities Code is amended by changing Sections 1-104.5 and
6 3-703 as follows:

7 (405 ILCS 5/1-104.5)

8 (This Section may contain text from a Public Act with a
9 delayed effective date)

10 Sec. 1-104.5. "Dangerous conduct" means threatening
11 behavior or conduct that places the person or another
12 individual in reasonable expectation of being harmed, or a
13 person's inability to provide, without the assistance of family
14 or outside help, for his or her basic physical needs so as to
15 guard himself or herself from serious harm.

16 (Source: P.A. 95-602, eff. 6-1-08.)

1 (405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

2 Sec. 3-703. If no certificate was filed, the respondent
3 shall be examined separately by a physician, or clinical
4 psychologist, or qualified examiner and by a psychiatrist. If a
5 certificate executed by a psychiatrist was filed, the
6 respondent shall be examined by a physician, clinical
7 psychologist, qualified examiner, or psychiatrist. If a
8 certificate executed by a qualified examiner, clinical
9 psychologist, or a physician who is not a psychiatrist was
10 filed, the respondent shall be examined by a psychiatrist. The
11 examining physician, clinical psychologist, qualified examiner
12 or psychiatrist may interview by telephone or in person any
13 witnesses or other persons listed in the petition for
14 involuntary admission. If, as a result of an examination, a
15 certificate is executed, the certificate shall be promptly
16 filed with the court. If a certificate is executed, the
17 examining physician, clinical psychologist, qualified examiner
18 or psychiatrist may also submit for filing with the court a
19 report in which his findings are described in detail, and may
20 rely upon such findings for his opinion that the respondent is
21 subject to involuntary admission. Copies of the certificates
22 shall be made available to the attorneys for the parties upon
23 request prior to the hearing. A certificate prepared in
24 compliance with this Article need not state that the respondent
25 is in need of immediate hospitalization. However, if either or

1 both of the certificates fail to state that the respondent is
2 in need of immediate hospitalization, the respondent shall
3 remain in his or her place of residence pending a hearing on
4 the petition.

5 (Source: P.A. 85-558.)"; and

6 on page 1, by replacing line 6 with the following:

7 "Sections 4 and 9.2 as follows:

8 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

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

12 (1) the parent or guardian of a recipient who is under
13 12 years of age;

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

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

1 the following information: current physical and mental
2 condition, diagnosis, treatment needs, services provided,
3 and services needed, including medication, if any;

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

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

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

14 (7) an attorney-in-fact appointed under the Mental
15 Health Treatment Preference Declaration Act.

16 (b) Assistance in interpreting the record may be provided
17 without charge and shall be provided if the person inspecting
18 the record is under 18 years of age. However, access may in no
19 way be denied or limited if the person inspecting the record
20 refuses the assistance. A reasonable fee may be charged for
21 duplication of a record. However, when requested to do so in
22 writing by any indigent recipient, the custodian of the records
23 shall provide at no charge to the recipient, or to the
24 Guardianship and Advocacy Commission, the agency designated by
25 the Governor under Section 1 of the Protection and Advocacy for
26 Developmentally Disabled Persons Act or to any other

1 not-for-profit agency whose primary purpose is to provide free
2 legal services or advocacy for the indigent and who has
3 received written authorization from the recipient under
4 Section 5 of this Act to receive his records, one copy of any
5 records in its possession whose disclosure is authorized under
6 this Act.

7 (c) Any person entitled to access to a record under this
8 Section may submit a written statement concerning any disputed
9 or new information, which statement shall be entered into the
10 record. Whenever any disputed part of a record is disclosed,
11 any submitted statement relating thereto shall accompany the
12 disclosed part. Additionally, any person entitled to access may
13 request modification of any part of the record which he
14 believes is incorrect or misleading. If the request is refused,
15 the person may seek a court order to compel modification.

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

19 (Source: P.A. 88-484; 89-439, eff. 6-1-96.)".