

SB3039



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3039

Introduced 2/4/2010, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

740 ILCS 110/11

from Ch. 91 1/2, par. 811

Amends the Mental Health and Developmental Disabilities Confidentiality Act. Adds a category for permissible disclosure of mental health records or communications: to a medical practitioner, including a primary care physician, from whom a recipient is seeking medical care; however, disclosure shall be limited to pharmaceutical records and communications regarding pharmaceuticals including payment for pharmaceuticals. Effective immediately.

LRB096 16626 AJO 31901 b

A BILL FOR

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 11 as follows:

7 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

8 Sec. 11. Disclosure of records and communications. Records
9 and communications may be disclosed:

10 (i) in accordance with the provisions of the Abused and
11 Neglected Child Reporting Act, subsection (u) of Section 5
12 of the Children and Family Services Act, or Section 7.4 of
13 the Child Care Act of 1969;

14 (ii) when, and to the extent, a therapist, in his or
15 her sole discretion, determines that disclosure is
16 necessary to initiate or continue civil commitment or
17 involuntary treatment proceedings under the laws of this
18 State or to otherwise protect the recipient or other person
19 against a clear, imminent risk of serious physical or
20 mental injury or disease or death being inflicted upon the
21 recipient or by the recipient on himself or another;

22 (iii) when, and to the extent disclosure is, in the
23 sole discretion of the therapist, necessary to the

1 provision of emergency medical care to a recipient who is
2 unable to assert or waive his or her rights hereunder;

3 (iii-a) to any medical practitioner from whom the
4 recipient is seeking medical care, including any primary
5 care physician; however, disclosure shall be limited to
6 pharmaceutical records and communications regarding
7 pharmaceuticals, including records and communications
8 regarding payment for pharmaceuticals;

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

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

25 (vi) in judicial proceedings under Article VIII of
26 Chapter III and Article V of Chapter IV of the Mental

1 Health and Developmental Disabilities Code and proceedings
2 and investigations preliminary thereto, to the State's
3 Attorney for the county or residence of a person who is the
4 subject of such proceedings, or in which the person is
5 found, or in which the facility is located, to the attorney
6 representing the recipient in the judicial proceedings, to
7 any person or agency providing mental health services that
8 are the subject of the proceedings and to that person's or
9 agency's attorney, to any court personnel, including but
10 not limited to judges and circuit court clerks, and to a
11 guardian ad litem if one has been appointed by the court,
12 provided that the information so disclosed shall not be
13 utilized for any other purpose nor be redisclosed except in
14 connection with the proceedings or investigations;

15 (vii) when, and to the extent disclosure is necessary
16 to comply with the requirements of the Census Bureau in
17 taking the federal Decennial Census;

18 (viii) when, and to the extent, in the therapist's sole
19 discretion, disclosure is necessary to warn or protect a
20 specific individual against whom a recipient has made a
21 specific threat of violence where there exists a
22 therapist-recipient relationship or a special
23 recipient-individual relationship;

24 (ix) in accordance with the Sex Offender Registration
25 Act;

26 (x) in accordance with the Rights of Crime Victims and

1 Witnesses Act;

2 (xi) in accordance with Section 6 of the Abused and
3 Neglected Long Term Care Facility Residents Reporting Act;
4 and

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

7 Any person, institution, or agency, under this Act,
8 participating in good faith in the making of a report under the
9 Abused and Neglected Child Reporting Act or in the disclosure
10 of records and communications under this Section, shall have
11 immunity from any liability, civil, criminal or otherwise, that
12 might result by reason of such action. For the purpose of any
13 proceeding, civil or criminal, arising out of a report or
14 disclosure under this Section, the good faith of any person,
15 institution, or agency so reporting or disclosing shall be
16 presumed.

17 (Source: P.A. 95-331, eff. 8-21-07; 96-466, eff. 8-14-09.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.