

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 Mental Health and Developmental
5 Disabilities Code is amended by changing Sections 1-119, 3-600,
6 3-601, 3-602, 3-603, 3-606, 3-607, 3-610, 3-700, 3-701, 3-702,
7 3-703, 3-704, 3-801, 3-801.5, 3-802, 3-805, 3-807, 3-808,
8 3-809, 3-810, 3-811, 3-812, 3-813, 3-900, 3-901, and 3-902, by
9 changing the heading of Article VII of Chapter III, by adding
10 Section 1-119.1, and by adding Article VII-A to Chapter III as
11 follows:

12 (405 ILCS 5/1-119) (from Ch. 91 1/2, par. 1-119)

13 Sec. 1-119. "Person subject to involuntary admission on an
14 inpatient basis" means:

15 (1) A person with mental illness ~~and~~ who because of his
16 or her illness is reasonably expected, unless treated on an
17 inpatient basis, to engage in conduct placing such person
18 or another in physical harm or in reasonable expectation of
19 being physically harmed ~~dangerous conduct which may~~
20 ~~include threatening behavior or conduct that places that~~
21 ~~person or another individual in reasonable expectation of~~
22 ~~being harmed;~~

23 (2) A person with mental illness ~~and~~ who because of his

1 or her illness is unable to provide for his or her basic
2 physical needs so as to guard himself or herself from
3 serious harm without the assistance of family or others,
4 unless treated on an inpatient basis ~~outside help;~~ or

5 (3) A person with mental illness who:

6 (i) refuses treatment or is not adhering
7 adequately to prescribed treatment;

8 (ii) because of the nature of his or her illness,
9 is unable to understand his or her need for treatment;

10 and

11 (iii) if not treated on an inpatient basis, is
12 reasonably expected, based on his or her behavioral
13 history, to suffer mental or emotional deterioration
14 and is reasonably expected, after such deterioration,
15 to meet the criteria of either paragraph (1) or
16 paragraph (2) of this Section. ~~, because of the nature~~

17 ~~of his or her illness, is unable to understand his or~~
18 ~~her need for treatment and who, if not treated, is~~
19 ~~reasonably expected to suffer or continue to suffer~~
20 ~~mental deterioration or emotional deterioration, or~~
21 ~~both, to the point that the person is reasonably~~
22 ~~expected to engage in dangerous conduct.~~

23 In determining whether a person meets the criteria
24 specified in paragraph (1), (2), or (3), the court may consider
25 evidence of the person's repeated past pattern of specific
26 behavior and actions related to the person's illness.

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

2 (405 ILCS 5/1-119.1 new)

3 Sec. 1-119.1. "Person subject to involuntary admission on
4 an outpatient basis" means:

5 (1) A person who would meet the criteria for admission
6 on an inpatient basis as specified in Section 1-119 in the
7 absence of treatment on an outpatient basis and for whom
8 treatment on an outpatient basis can only be reasonably
9 ensured by a court order mandating such treatment; or

10 (2) A person with a mental illness which, if left
11 untreated, is reasonably expected to result in an increase
12 in the symptoms caused by the illness to the point that the
13 person would meet the criteria for commitment under Section
14 1-119, and whose mental illness has, on more than one
15 occasion in the past, caused that person to refuse needed
16 and appropriate mental health services in the community.

17 (405 ILCS 5/3-600) (from Ch. 91 1/2, par. 3-600)

18 Sec. 3-600. A person 18 years of age or older who is
19 subject to involuntary admission on an inpatient basis and in
20 need of immediate hospitalization may be admitted to a mental
21 health facility pursuant to this Article.

22 (Source: P.A. 80-1414.)

23 (405 ILCS 5/3-601) (from Ch. 91 1/2, par. 3-601)

1 Sec. 3-601. Involuntary admission; petition.

2 (a) When a person is asserted to be subject to involuntary
3 admission on an inpatient basis and in such a condition that
4 immediate hospitalization is necessary for the protection of
5 such person or others from physical harm, any person 18 years
6 of age or older may present a petition to the facility director
7 of a mental health facility in the county where the respondent
8 resides or is present. The petition may be prepared by the
9 facility director of the facility.

10 (b) The petition shall include all of the following:

11 1. A detailed statement of the reason for the assertion
12 that the respondent is subject to involuntary admission on
13 an inpatient basis, including the signs and symptoms of a
14 mental illness and a description of any acts, threats, or
15 other behavior or pattern of behavior supporting the
16 assertion and the time and place of their occurrence.

17 2. The name and address of the spouse, parent,
18 guardian, substitute decision maker, if any, and close
19 relative, or if none, the name and address of any known
20 friend of the respondent whom the petitioner has reason to
21 believe may know or have any of the other names and
22 addresses. If the petitioner is unable to supply any such
23 names and addresses, the petitioner shall state that
24 diligent inquiry was made to learn this information and
25 specify the steps taken.

26 3. The petitioner's relationship to the respondent and

1 a statement as to whether the petitioner has legal or
2 financial interest in the matter or is involved in
3 litigation with the respondent. If the petitioner has a
4 legal or financial interest in the matter or is involved in
5 litigation with the respondent, a statement of why the
6 petitioner believes it would not be practicable or possible
7 for someone else to be the petitioner.

8 4. The names, addresses and phone numbers of the
9 witnesses by which the facts asserted may be proved.

10 (c) Knowingly making a material false statement in the
11 petition is a Class A misdemeanor.

12 (Source: P.A. 91-726, eff. 6-2-00; 92-651, eff. 7-11-02.)

13 (405 ILCS 5/3-602) (from Ch. 91 1/2, par. 3-602)

14 Sec. 3-602. The petition shall be accompanied by a
15 certificate executed by a physician, qualified examiner,
16 psychiatrist, or clinical psychologist which states that the
17 respondent is subject to involuntary admission on an inpatient
18 basis and requires immediate hospitalization. The certificate
19 shall indicate that the physician, qualified examiner,
20 psychiatrist, or clinical psychologist personally examined the
21 respondent not more than 72 hours prior to admission. It shall
22 also contain the physician's, qualified examiner's,
23 psychiatrist's, or clinical psychologist's clinical
24 observations, other factual information relied upon in
25 reaching a diagnosis, and a statement as to whether the

1 respondent was advised of his rights under Section 3-208.

2 (Source: P.A. 80-1414.)

3 (405 ILCS 5/3-603) (from Ch. 91 1/2, par. 3-603)

4 Sec. 3-603. (a) If no physician, qualified examiner,
5 psychiatrist, or clinical psychologist is immediately
6 available or it is not possible after a diligent effort to
7 obtain the certificate provided for in Section 3-602, the
8 respondent may be detained for examination in a mental health
9 facility upon presentation of the petition alone pending the
10 obtaining of such a certificate.

11 (b) In such instance the petition shall conform to the
12 requirements of Section 3-601 and further specify that:

13 1. the petitioner believes, as a result of his personal
14 observation, that the respondent is subject to involuntary
15 admission on an inpatient basis;

16 2. a diligent effort was made to obtain a certificate;

17 3. no physician, qualified examiner, psychiatrist, or
18 clinical psychologist could be found who has examined or
19 could examine the respondent; and

20 4. a diligent effort has been made to convince the
21 respondent to appear voluntarily for examination by a
22 physician, qualified examiner, psychiatrist, or clinical
23 psychologist, unless the petitioner reasonably believes
24 that effort would impose a risk of harm to the respondent
25 or others.

1 (Source: P.A. 91-726, eff. 6-2-00; 91-837, eff. 6-16-00; 92-16,
2 eff. 6-28-01.)

3 (405 ILCS 5/3-606) (from Ch. 91 1/2, par. 3-606)

4 Sec. 3-606. A peace officer may take a person into custody
5 and transport him to a mental health facility when the peace
6 officer has reasonable grounds to believe that the person is
7 subject to involuntary admission on an inpatient basis and in
8 need of immediate hospitalization to protect such person or
9 others from physical harm. Upon arrival at the facility, the
10 peace officer may complete the petition under Section 3-601. If
11 the petition is not completed by the peace officer transporting
12 the person, the transporting officer's name, badge number, and
13 employer shall be included in the petition as a potential
14 witness as provided in Section 3-601 of this Chapter.

15 (Source: P.A. 94-202, eff. 7-12-05.)

16 (405 ILCS 5/3-607) (from Ch. 91 1/2, par. 3-607)

17 Sec. 3-607. Court ordered temporary detention and
18 examination. When, as a result of personal observation and
19 testimony in open court, any court has reasonable grounds to
20 believe that a person appearing before it is subject to
21 involuntary admission on an inpatient basis and in need of
22 immediate hospitalization to protect such person or others from
23 physical harm, the court may enter an order for the temporary
24 detention and examination of such person. The order shall set

1 forth in detail the facts which are the basis for its
2 conclusion. The court may order a peace officer to take the
3 person into custody and transport him to a mental health
4 facility. The person may be detained for examination for no
5 more than 24 hours to determine whether or not she or he is
6 subject to involuntary admission and in need of immediate
7 hospitalization. If a petition and certificate, ~~as provided in~~
8 ~~this Article,~~ are executed within the 24 hours, the person may
9 be admitted provided that the certificate states that the
10 person is both subject to involuntary admission and in need of
11 immediate hospitalization. If the certificate states that the
12 person is subject to involuntary admission but not in need of
13 immediate hospitalization, the person may remain in his or her
14 place of residence pending a hearing on the petition unless he
15 or she voluntarily agrees to inpatient treatment. The and the
16 provisions of this Article shall apply to all petitions and
17 certificates executed pursuant to this Section. If no petition
18 or certificate is executed, the person shall be released.

19 (Source: P.A. 91-726, eff. 6-2-00.)

20 (405 ILCS 5/3-610) (from Ch. 91 1/2, par. 3-610)

21 Sec. 3-610. As soon as possible but not later than 24
22 hours, excluding Saturdays, Sundays and holidays, after
23 admission of a respondent pursuant to this Article, the
24 respondent shall be examined by a psychiatrist. The
25 psychiatrist may be a member of the staff of the facility but

1 shall not be the person who executed the first certificate. If
2 a certificate has already been completed by a psychiatrist
3 following the respondent's admission, the respondent shall be
4 examined by another psychiatrist or by a physician, clinical
5 psychologist, or qualified examiner. If, as a result of this
6 second examination, a certificate is executed, the certificate
7 shall be promptly filed with the court. If the certificate
8 states that the respondent is subject to involuntary admission
9 but not in need of immediate hospitalization, the respondent
10 may remain in his or her place of residence pending a hearing
11 on the petition unless he or she voluntarily agrees to
12 inpatient treatment. If the respondent is not examined or if
13 the psychiatrist, physician, clinical psychologist, or
14 qualified examiner does not execute a certificate pursuant to
15 Section 3-602, the respondent shall be released forthwith.

16 (Source: P.A. 80-1414.)

17 (405 ILCS 5/Ch. III Art. VII heading)

18 ARTICLE VII. ADMISSION ON AN INPATIENT BASIS BY COURT ORDER

19 (405 ILCS 5/3-700) (from Ch. 91 1/2, par. 3-700)

20 Sec. 3-700. A person 18 years of age or older who is
21 subject to involuntary admission on an inpatient basis may be
22 admitted to an inpatient ~~a~~ mental health facility upon court
23 order pursuant to this Article.

24 (Source: P.A. 80-1414.)

1 (405 ILCS 5/3-701) (from Ch. 91 1/2, par. 3-701)

2 Sec. 3-701. (a) Any person 18 years of age or older may
3 execute a petition asserting that another person is subject to
4 involuntary admission on an inpatient basis. The petition shall
5 be prepared pursuant to paragraph (b) of Section 3-601 and
6 shall be filed with the court in the county where the
7 respondent resides or is present.

8 (b) The court may inquire of the petitioner whether there
9 are reasonable grounds to believe that the facts stated in the
10 petition are true and whether the respondent is subject to
11 involuntary admission. The inquiry may proceed without notice
12 to the respondent only if the petitioner alleges facts showing
13 that an emergency exists such that immediate hospitalization is
14 necessary and the petitioner testifies before the court as to
15 the factual basis for the allegations.

16 (c) A petition for involuntary admission on an inpatient
17 basis may be combined with or accompanied by a petition for
18 involuntary admission on an outpatient basis under Article
19 VII-A.

20 (Source: P.A. 91-837, eff. 6-16-00.)

21 (405 ILCS 5/3-702) (from Ch. 91 1/2, par. 3-702)

22 Sec. 3-702. (a) The petition may be accompanied by the
23 certificate of a physician, qualified examiner, psychiatrist,
24 or clinical psychologist which certifies that the respondent is

1 subject to involuntary admission on an inpatient basis and
2 which contains the other information specified in Section
3 3-602.

4 (b) Upon receipt of the petition either with or without a
5 certificate, if the court finds the documents are in order, it
6 may make such orders pursuant to Section 3-703 as are necessary
7 to provide for examination of the respondent. If the petition
8 is not accompanied by 2 certificates executed pursuant to
9 Section 3-703, the court may order the respondent to present
10 himself for examination at a time and place designated by the
11 court. If the petition is accompanied by 2 certificates
12 executed pursuant to Section 3-703 and the court finds the
13 documents are in order, it shall set the matter for hearing.

14 (Source: P.A. 91-726, eff. 6-2-00.)

15 (405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

16 Sec. 3-703. If no certificate was filed, the respondent
17 shall be examined separately by a physician, or clinical
18 psychologist, or qualified examiner and by a psychiatrist. If a
19 certificate executed by a psychiatrist was filed, the
20 respondent shall be examined by a physician, clinical
21 psychologist, qualified examiner, or psychiatrist. If a
22 certificate executed by a qualified examiner, clinical
23 psychologist, or a physician who is not a psychiatrist was
24 filed, the respondent shall be examined by a psychiatrist. The
25 examining physician, clinical psychologist, qualified examiner

1 or psychiatrist may interview by telephone or in person any
2 witnesses or other persons listed in the petition for
3 involuntary admission. If, as a result of an examination, a
4 certificate is executed, the certificate shall be promptly
5 filed with the court. If a certificate is executed, the
6 examining physician, clinical psychologist, qualified examiner
7 or psychiatrist may also submit for filing with the court a
8 report in which his findings are described in detail, and may
9 rely upon such findings for his opinion that the respondent is
10 subject to involuntary admission on an inpatient basis. Copies
11 of the certificates shall be made available to the attorneys
12 for the parties upon request prior to the hearing. A
13 certificate prepared in compliance with this Article shall
14 state whether or not the respondent is in need of immediate
15 hospitalization. However, if both the certificates state that
16 the respondent is not in need of immediate hospitalization, the
17 respondent may remain in his or her place of residence pending
18 a hearing on the petition unless he or she voluntarily agrees
19 to inpatient treatment.

20 (Source: P.A. 85-558.)

21 (405 ILCS 5/3-704) (from Ch. 91 1/2, par. 3-704)

22 Sec. 3-704. Examination; detention.

23 (a) The respondent shall be permitted to remain in his or
24 her place of residence pending any examination. The respondent
25 may be accompanied by one or more of his or her relatives or

1 friends or by his or her attorney to the place of examination.
2 If, however, the court finds that it is necessary in order to
3 complete the examination the court may order that the person be
4 admitted to a mental health facility pending examination and
5 may order a peace officer or other person to transport the
6 person there. The examination shall be conducted at a local
7 mental health facility or hospital or, if possible, in the
8 respondent's own place of residence. No person may be detained
9 for examination under this Section for more than 24 hours. The
10 person shall be released upon completion of the examination
11 unless the physician, qualified examiner or clinical
12 psychologist executes a certificate stating that the person is
13 subject to involuntary admission on an inpatient basis and in
14 need of immediate hospitalization to protect such person or
15 others from physical harm. Upon admission under this Section
16 treatment may be given pursuant to Section 3-608.

17 (a-5) Whenever a respondent has been transported to a
18 mental health facility for an examination, the admitting
19 facility shall inquire, upon the respondent's arrival, whether
20 the respondent wishes any person or persons to be notified of
21 his or her detention at that facility. If the respondent does
22 wish to have any person or persons notified of his or her
23 detention at the facility, the facility must promptly make all
24 reasonable attempts to locate the individual identified by the
25 respondent, or at least 2 individuals identified by the
26 respondent if more than one has been identified, and notify

1 them of the respondent's detention at the facility for a
2 mandatory examination pursuant to court order.

3 (b) Not later than 24 hours, excluding Saturdays, Sundays,
4 and holidays, after admission under this Section, the
5 respondent shall be asked if he desires the petition and the
6 notice required under Section 3-206 sent to any other persons
7 and at least 2 such persons designated by the respondent shall
8 be sent the documents. At the time of his admission the
9 respondent shall be allowed to complete not fewer than 2
10 telephone calls to such persons as he chooses.

11 (Source: P.A. 91-726, eff. 6-2-00; 91-837, eff. 6-16-00; 92-16,
12 eff. 6-28-01.)

13 (405 ILCS 5/Ch. III Art. VII-A heading new)

14 ARTICLE VII-A. ADMISSION ON AN OUTPATIENT BASIS BY COURT ORDER

15 (405 ILCS 5/3-750 new)

16 Sec. 3-750. Involuntary admission on an outpatient basis. A
17 person 18 years of age or older who is subject to involuntary
18 admission on an outpatient basis may receive alternative
19 treatment in the community or may be placed in the care and
20 custody of a relative or other person upon court order pursuant
21 to this Article.

22 (405 ILCS 5/3-751 new)

23 Sec. 3-751. Involuntary admission; petition.

1 (a) Any person 18 years of age or older may execute a
2 petition asserting that another person is subject to
3 involuntary admission on an outpatient basis. The petition
4 shall be prepared pursuant to paragraph (b) of Section 3-601
5 and shall be filed with the court in the county where the
6 respondent resides or is present.

7 (b) The court may inquire of the petitioner whether there
8 are reasonable grounds to believe that the facts stated in the
9 petition are true and whether the respondent is subject to
10 involuntary admission on an outpatient basis.

11 (c) A petition for involuntary admission on an outpatient
12 basis may be combined with or accompanied by a petition for
13 involuntary admission on an inpatient basis under Article VII.

14 (405 ILCS 5/3-752 new)

15 Sec. 3-752. Certificate.

16 (a) The petition may be accompanied by the certificate of a
17 physician, qualified examiner, psychiatrist, or clinical
18 psychologist which certifies that the respondent is subject to
19 involuntary admission on an outpatient basis. The certificate
20 shall indicate that the physician, qualified examiner, or
21 clinical psychologist personally examined the respondent not
22 more than 72 hours prior to the completion of the certificate.
23 It shall also contain the physician's, qualified examiner's, or
24 clinical psychologist's clinical observations, other factual
25 information relied upon in reaching a diagnosis, and a

1 statement as to whether the respondent was advised of his or
2 her rights under Section 3-208.

3 (b) Upon receipt of the petition either with or without a
4 certificate, if the court finds the documents are in order, it
5 may make such orders pursuant to Section 3-753 as are necessary
6 to provide for examination of the respondent. If the petition
7 is not accompanied by 2 certificates executed pursuant to
8 Section 3-753, the court may order the respondent to present
9 himself or herself for examination at a time and place
10 designated by the court. If the petition is accompanied by 2
11 certificates executed pursuant to Section 3-753 and the court
12 finds the documents are in order, the court shall set the
13 matter for hearing.

14 (405 ILCS 5/3-753 new)

15 Sec. 3-753. Examination. If no certificate was filed, the
16 respondent shall be examined separately by a physician, or
17 clinical psychologist or qualified examiner and by a
18 psychiatrist. If a certificate executed by a psychiatrist was
19 filed, the respondent shall be examined by a physician,
20 clinical psychologist, qualified examiner, or psychiatrist. If
21 a certificate executed by a qualified examiner, clinical
22 psychologist, or a physician who is not a psychiatrist was
23 filed, the respondent shall be examined by a psychiatrist. The
24 examining physician, clinical psychologist, qualified examiner
25 or psychiatrist may interview by telephone or in person any

1 witnesses or other persons listed in the petition for
2 involuntary admission. If, as a result of an examination, a
3 certificate is executed, the certificate shall be promptly
4 filed with the court. If a certificate is executed, the
5 examining physician, clinical psychologist, qualified examiner
6 or psychiatrist may also submit for filing with the court a
7 report in which his or her findings are described in detail,
8 and may rely upon such findings for his opinion that the
9 respondent is subject to involuntary admission. Copies of the
10 certificates shall be made available to the attorneys for the
11 parties upon request prior to the hearing.

12 (405 ILCS 5/3-754 new)

13 Sec. 3-754. Detention.

14 (a) The respondent shall be permitted to remain in his or
15 her place of residence pending any examination. The respondent
16 may be accompanied by one or more of his or her relatives or
17 friends or by his or her attorney to the place of examination.
18 If, however, the respondent refuses to cooperate with an
19 examination on an outpatient basis, the court may order that
20 the person be admitted to a mental health facility solely for
21 the purpose of such examination and may order a peace officer
22 or other person to transport the person there. The examination
23 shall be conducted at a local mental health facility or
24 hospital or, if possible, in the respondent's own place of
25 residence. No person may be detained for examination under this

1 Section for more than 24 hours. The person shall be released
2 upon completion of the examination unless the physician,
3 qualified examiner or clinical psychologist executes a
4 certificate stating that the person is subject to involuntary
5 admission on an inpatient basis and in need of immediate
6 hospitalization to protect such person or others from physical
7 harm and a petition is filed pursuant to Section 3-701. Upon
8 admission under this Section, treatment may be given pursuant
9 to Section 3-608. If the respondent is admitted on an inpatient
10 basis, the facility shall proceed pursuant to Article VII.

11 (b) Whenever a respondent has been transported to a mental
12 health facility for an examination, the admitting facility
13 shall inquire, upon the respondent's arrival, whether the
14 respondent wishes any person or persons to be notified of his
15 or her detention at that facility. If the respondent does wish
16 to have any person or persons notified of his or her detention
17 at the facility, the facility must promptly make all reasonable
18 attempts to locate the individual identified by the respondent,
19 or at least 2 individuals identified by the respondent if more
20 than one has been identified, and notify them of the
21 respondent's detention at the facility for a mandatory
22 examination pursuant to court order.

23 (405 ILCS 5/3-755 new)

24 Sec. 3-755. Notice. At least 36 hours before the time of
25 the examination fixed by the court, a copy of the petition, the

1 order for examination, and a statement of rights as provided in
2 Section 3-205 shall be personally delivered to the person and
3 shall be given personally or sent by mail to his or her
4 attorney and guardian, if any. If the respondent is admitted to
5 a mental health facility for examination under Section 3-754,
6 such notices may be delivered at the time of service of the
7 order for admission.

8 (405 ILCS 5/3-756 new)

9 Sec. 3-756. Court hearing. The court shall set a hearing to
10 be held within 15 days, excluding Saturdays, Sundays, and
11 holidays, after its receipt of the second certificate. The
12 court shall direct that notice of the time and place of hearing
13 be served upon the respondent, his or her attorney, and
14 guardian, if any, and his or her responsible relatives. The
15 respondent may remain at his residence pending the hearing. If,
16 however, the court finds it necessary, it may order a peace
17 officer or another person to have the respondent before the
18 court at the time and place set for hearing.

19 (405 ILCS 5/3-801) (from Ch. 91 1/2, par. 3-801)

20 Sec. 3-801. A respondent may request admission as an
21 informal or voluntary recipient at any time prior to an
22 adjudication that he is subject to involuntary admission on an
23 inpatient or outpatient basis. The facility director shall
24 approve such a request unless the facility director determines

1 that the respondent lacks the capacity to consent to informal
2 or voluntary admission or that informal or voluntary admission
3 is clinically inappropriate. The director shall not find that
4 voluntary admission is clinically inappropriate in the absence
5 of a documented history of the respondent's illness and
6 treatment demonstrating that the respondent is unlikely to
7 continue to receive needed treatment following release from
8 informal or voluntary admission and that an order for
9 involuntary admission on an outpatient basis ~~alternative~~
10 ~~treatment or for care and custody~~ is necessary in order to
11 ensure continuity of treatment outside a mental health
12 facility.

13 If the facility director approves such a request, the
14 petitioner shall be notified of the request and of his or her
15 right to object thereto, if the petitioner has requested such
16 notification on that individual recipient. The court may
17 dismiss the pending proceedings, but shall consider any
18 objection made by either the petitioner or the State's Attorney
19 and may require proof that such dismissal is in the best
20 interest of the respondent and of the public. If voluntary
21 admission is accepted and the petition is dismissed by the
22 court, notice shall be provided to the petitioner, orally and
23 in writing, of his or her right to receive notice of the
24 recipient's discharge pursuant to Section 3-902(d).

25 (Source: P.A. 96-570, eff. 1-1-10.)

1 (405 ILCS 5/3-801.5)

2 Sec. 3-801.5. Agreed order for admission on an outpatient
3 basis ~~alternative treatment or care and custody.~~

4 (a) At any time before the conclusion of the hearing and
5 the entry of the court's findings, a respondent may enter into
6 an agreement to be subject to an order for admission on an
7 outpatient basis ~~alternative treatment or care and custody~~ as
8 provided for in Sections 3-811, 3-812, 3-813, and 3-815 of this
9 Code, provided that:

10 (1) The court and the parties have been presented with
11 a written report pursuant to Section 3-810 of this Code
12 containing a recommendation for court-ordered admission on
13 an outpatient basis ~~alternative treatment or care and~~
14 ~~custody~~ and setting forth in detail the conditions for such
15 an order, and the court is satisfied that the proposal for
16 admission on an outpatient basis ~~alternative treatment or~~
17 ~~care and custody~~ is in the best interest of the respondent
18 and of the public.

19 (2) The court advises the respondent of the conditions
20 of the proposed order in open court and is satisfied that
21 the respondent understands and agrees to the conditions of
22 the proposed order for admission on an outpatient basis
23 ~~alternative treatment or care and custody.~~

24 (3) The proposed custodian is advised of the
25 recommendation for care and custody and agrees to abide by
26 the terms of the proposed order.

1 (4) No such order may require the respondent to be
2 hospitalized except as provided in subsection (b) of this
3 Section.

4 (5) No order may include as one of its conditions the
5 administration of psychotropic medication, unless the
6 court determines, based on the documented history of the
7 respondent's treatment and illness, that the respondent is
8 unlikely to continue to receive needed psychotropic
9 medication in the absence of such an order.

10 (b) An agreed order of care and custody entered pursuant to
11 this Section may grant the custodian the authority to admit a
12 respondent to a hospital if the respondent fails to comply with
13 the conditions of the agreed order. If necessary in order to
14 obtain the hospitalization of the respondent, the custodian may
15 apply to the court for an order authorizing an officer of the
16 peace to take the respondent into custody and transport the
17 respondent to the hospital specified in the agreed order. The
18 provisions of Section 3-605 of this Code shall govern the
19 transportation of the respondent to a mental health facility,
20 except to the extent that those provisions are inconsistent
21 with this Section. However, a person admitted to a hospital
22 pursuant to powers granted under an agreed order for care and
23 custody shall be treated as a voluntary recipient pursuant to
24 Article IV of this Chapter and shall be advised immediately of
25 his or her right to request a discharge pursuant to Section
26 3-403 of this Code.

1 (c) If the court has appointed counsel for the respondent
2 pursuant to Section 3-805 of this Code, that appointment shall
3 continue for the duration of any order entered under this
4 Section, and the respondent shall be represented by counsel in
5 any proceeding held pursuant to this Section.

6 (d) An order entered under this Section shall not
7 constitute a finding that the respondent is subject to
8 involuntary admission on an inpatient or outpatient basis.

9 (e) Nothing in this Section shall be deemed to create an
10 agency relationship between the respondent and any custodian
11 appointed pursuant to this Section.

12 (f) Notwithstanding any other provision of Illinois law, no
13 respondent may be cited for contempt for violating the terms
14 and conditions of his or her agreed order of care and custody.

15 (Source: P.A. 94-521, eff. 1-1-06.)

16 (405 ILCS 5/3-802) (from Ch. 91 1/2, par. 3-802)

17 Sec. 3-802. The respondent is entitled to a jury on the
18 question of whether he is subject to involuntary admission on
19 an inpatient or outpatient basis. The jury shall consist of 6
20 persons to be chosen in the same manner as are jurors in other
21 civil proceedings. A respondent is not entitled to a jury on
22 the question of whether psychotropic medication or
23 electroconvulsive therapy may be administered under Section
24 2-107.1.

25 (Source: P.A. 95-172, eff. 8-14-07.)

1 (405 ILCS 5/3-805) (from Ch. 91 1/2, par. 3-805)

2 Sec. 3-805. Every respondent alleged to be subject to
3 involuntary admission on an inpatient or outpatient basis shall
4 be represented by counsel. If the respondent is indigent or an
5 appearance has not been entered on his behalf at the time the
6 matter is set for hearing, the court shall appoint counsel for
7 him. A hearing shall not proceed when a respondent is not
8 represented by counsel unless, after conferring with counsel,
9 the respondent requests to represent himself and the court is
10 satisfied that the respondent has the capacity to make an
11 informed waiver of his right to counsel. Counsel shall be
12 allowed time for adequate preparation and shall not be
13 prevented from conferring with the respondent at reasonable
14 times nor from making an investigation of the matters in issue
15 and presenting such relevant evidence as he believes is
16 necessary.

17 1. If the court determines that the respondent is unable to
18 obtain counsel, the court shall appoint as counsel an attorney
19 employed by or under contract with the Guardianship and Mental
20 Health Advocacy Commission, if available.

21 2. If an attorney from the Guardianship and Mental Health
22 Advocacy Commission is not available, the court shall appoint
23 as counsel the public defender or, only if no public defender
24 is available, an attorney licensed to practice law in this
25 State.

1 3. Upon filing with the court of a verified statement of
2 legal services rendered by the private attorney appointed
3 pursuant to paragraph (2) of this Section, the court shall
4 determine a reasonable fee for such services. If the respondent
5 is unable to pay the fee, the court shall enter an order upon
6 the county to pay the entire fee or such amount as the
7 respondent is unable to pay.

8 (Source: P.A. 80-1414.)

9 (405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

10 Sec. 3-807. No respondent may be found subject to
11 involuntary admission on an inpatient or outpatient basis
12 unless at least one psychiatrist, clinical social worker, or
13 clinical psychologist who has examined him testifies in person
14 at the hearing. The respondent may waive the requirement of the
15 testimony subject to the approval of the court.

16 (Source: P.A. 87-530.)

17 (405 ILCS 5/3-808) (from Ch. 91 1/2, par. 3-808)

18 Sec. 3-808. No respondent may be found subject to
19 involuntary admission on an inpatient or outpatient basis
20 unless that finding has been established by clear and
21 convincing evidence.

22 (Source: P.A. 80-1414.)

23 (405 ILCS 5/3-809) (from Ch. 91 1/2, par. 3-809)

1 Sec. 3-809. If the respondent is not found subject to
2 involuntary admission on an inpatient or outpatient basis, the
3 court shall dismiss the petition and order the respondent
4 discharged. If the respondent is found subject to involuntary
5 admission on an inpatient or outpatient basis, the court shall
6 enter an order so specifying. If the court is not satisfied
7 with the verdict of the jury finding the respondent subject to
8 involuntary admission on an inpatient or outpatient basis, it
9 may set aside such verdict and order the respondent discharged
10 or it may order another hearing.

11 (Source: P.A. 80-1414.)

12 (405 ILCS 5/3-810) (from Ch. 91 1/2, par. 3-810)

13 Sec. 3-810. Before disposition is determined, the facility
14 director or such other person as the court may direct shall
15 prepare a written report including information on the
16 appropriateness and availability of alternative treatment
17 settings, a social investigation of the respondent, a
18 preliminary treatment plan, and any other information which the
19 court may order. The treatment plan shall describe the
20 respondent's problems and needs, the treatment goals, the
21 proposed treatment methods, and a projected timetable for their
22 attainment. If the respondent is found subject to involuntary
23 admission on an inpatient or outpatient basis, the court shall
24 consider the report in determining an appropriate disposition.

25 (Source: P.A. 91-726, eff. 6-2-00.)

1 (405 ILCS 5/3-811) (from Ch. 91 1/2, par. 3-811)

2 Sec. 3-811. Involuntary admission; alternative mental
3 health facilities.

4 (a) If any person is found subject to involuntary admission
5 on an inpatient basis, the court shall consider alternative
6 mental health facilities which are appropriate for and
7 available to the respondent, including but not limited to
8 hospitalization. The court may order the respondent to undergo
9 a program of hospitalization in a mental health facility
10 designated by the Department, in a licensed private hospital or
11 private mental health facility if it agrees, or in a facility
12 of the United States Veterans Administration if it agrees. If
13 any person is found subject to involuntary admission on an
14 outpatient basis, ~~or~~ the court may order the respondent to
15 undergo a program of alternative treatment; or the court may
16 place the respondent in the care and custody of a relative or
17 other person willing and able to properly care for him or her.
18 The court shall order the least restrictive alternative for
19 treatment which is appropriate.

20 (b) Whenever a person is found subject to involuntary
21 admission on an inpatient or outpatient basis, notice shall be
22 provided to the petitioner, orally and in writing, of his or
23 her right to receive notice of the recipient's discharge
24 pursuant to Section 3-902(d).

25 (Source: P.A. 96-570, eff. 1-1-10.)

1 (405 ILCS 5/3-812) (from Ch. 91 1/2, par. 3-812)

2 Sec. 3-812. Court ordered admission on an outpatient basis
3 ~~alternative treatment~~; modification; revocation.

4 (a) If a respondent is found subject to involuntary
5 admission on an outpatient basis, the court may issue an order:
6 (i) placing the respondent in the care and custody of a
7 relative or other person willing and able to properly care for
8 him or her; or (ii) committing the respondent to alternative
9 treatment at a community mental health provider.

10 (b) An order placing the respondent in the care and custody
11 of a relative or other person shall specify the powers and
12 duties of the custodian. An order of care and custody entered
13 pursuant to this Section may grant the custodian the authority
14 to admit a respondent to a hospital if the respondent fails to
15 comply with the conditions of the order. If necessary in order
16 to obtain the hospitalization of the respondent, the custodian
17 may apply to the court for an order authorizing an officer of
18 the peace to take the respondent into custody and transport the
19 respondent to the hospital specified in the agreed order. The
20 provisions of Section 3-605 shall govern the transportation of
21 the respondent to a mental health facility, except to the
22 extent that those provisions are inconsistent with this
23 Section. No person admitted to a hospital pursuant to this
24 subsection shall be detained for longer than 24 hours,
25 excluding Saturdays, Sundays, and holidays, unless, within

1 that period, a petition for involuntary admission on an
2 inpatient basis and a certificate supporting such petition have
3 been filed as provided in Section 3-611.

4 (c) ~~(a)~~ Alternative treatment shall not be ordered unless
5 the program being considered is capable of providing adequate
6 and humane treatment in the least restrictive setting which is
7 appropriate to the respondent's condition. The court shall have
8 continuing authority to modify an order for alternative
9 treatment if the recipient fails to comply with the order or is
10 otherwise found unsuitable for alternative treatment. Prior to
11 modifying such an order, the court shall receive a report from
12 the facility director of the program specifying why the
13 alternative treatment is unsuitable. The recipient shall be
14 notified and given an opportunity to respond when modification
15 of the order for alternative treatment is considered. If the
16 court determines that the respondent has violated the order for
17 alternative treatment in the community or that alternative
18 treatment in the community will no longer provide adequate
19 assurances for the safety of the respondent or others, the
20 court may revoke the order for alternative treatment in the
21 community and may order a peace officer to take the recipient
22 into custody and transport him to an inpatient mental health
23 facility. The provisions of Section 3-605 shall govern the
24 transportation of the respondent to a mental health facility,
25 except to the extent that those provisions are inconsistent
26 with this Section. No person admitted to a hospital pursuant to

1 this subsection shall be detained for longer than 24 hours,
2 excluding Saturdays, Sundays, and holidays, unless, within
3 that period, a petition for involuntary admission on an
4 inpatient basis and a certificate supporting such petition have
5 been filed as provided in Section 3-611.

6 ~~(b) If the court revokes an order for alternative treatment~~
7 ~~and orders a recipient hospitalized, it may order a peace~~
8 ~~officer to take the recipient into custody and transport him to~~
9 ~~the facility. The court may order the recipient to undergo a~~
10 ~~program of hospitalization at a licensed private hospital or~~
11 ~~private mental health facility, or a facility of the United~~
12 ~~States Veterans Administration, if such private or Veterans~~
13 ~~Administration facility agrees to such placement, or at a~~
14 ~~mental health facility designated by the Department.~~

15 (Source: P.A. 91-726, eff. 6-2-00.)

16 (405 ILCS 5/3-813) (from Ch. 91 1/2, par. 3-813)

17 Sec. 3-813. (a) An initial order for commitment on an
18 inpatient basis ~~hospitalization~~ shall be for a period not to
19 exceed 90 days. Prior to the expiration of the initial order if
20 the facility director believes that the recipient continues to
21 be subject to involuntary admission on an inpatient or
22 outpatient basis, a new petition and 2 new certificates may be
23 filed with the court. If a petition is filed, the facility
24 director shall file with the court a current treatment plan
25 which includes an evaluation of the recipient's progress and

1 the extent to which he is benefiting from treatment. If no
2 petition is filed prior to the expiration of the initial order,
3 the recipient shall be discharged. Following a hearing, the
4 court may order a second period of commitment on an inpatient
5 basis ~~hospitalization~~ not to exceed 90 days only if it finds
6 that the recipient continues to be subject to involuntary
7 admission on an inpatient basis. If, following a hearing, the
8 court determines that the respondent is subject to involuntary
9 admission on an outpatient basis as provided in Section 3-812,
10 the court may order the respondent committed on an outpatient
11 basis for a period not to exceed 180 days.

12 (a-1) An initial order of commitment on an outpatient basis
13 shall be for a period not to exceed 180 days. Prior to the
14 expiration of the initial order, if the facility director or
15 the custodian believes that the recipient continues to be
16 subject to involuntary admission on an outpatient basis, a new
17 petition and 2 new certificates may be filed with the court. If
18 a petition is filed, the facility director or the custodian
19 shall file with the court a current treatment plan which
20 includes an evaluation of the recipient's progress and the
21 extent to which he or she is benefiting from treatment. If no
22 petition is filed prior to the expiration of the initial order,
23 the recipient shall be discharged. Following a hearing, the
24 court may order a second period of commitment on an outpatient
25 basis not to exceed 180 days only if it finds that the
26 recipient continues to be subject to involuntary admission on

1 an outpatient basis.

2 (b) Additional 180 day periods of inpatient or outpatient
3 commitment ~~treatment~~ may be sought pursuant to the procedures
4 set out in this Section for so long as the recipient continues
5 to meet the standard for such commitment ~~be subject to~~
6 ~~involuntary admission~~. The provisions of this chapter which
7 apply whenever an initial order is sought shall apply whenever
8 an additional period of inpatient or outpatient commitment
9 ~~treatment~~ is sought.

10 (Source: P.A. 91-787, eff. 1-1-01.)

11 (405 ILCS 5/3-900) (from Ch. 91 1/2, par. 3-900)

12 Sec. 3-900. (a) Any person committed on an inpatient or
13 outpatient basis ~~hospitalized or admitted to alternative~~
14 ~~treatment or care and custody as having mental illness~~ on court
15 order under this Chapter or under any prior statute or any
16 person on his behalf may file a petition for discharge at any
17 time in the court of the county where the recipient resides or
18 is found.

19 (b) The petition shall set forth: (1) the name of the
20 recipient; (2) the underlying circumstances and date of the
21 order; (3) a request for discharge from the order; and (4) the
22 reasons for such request.

23 (Source: P.A. 88-380.)

24 (405 ILCS 5/3-901) (from Ch. 91 1/2, par. 3-901)

1 Sec. 3-901. (a) Upon the filing of a petition under Section
2 3-900 or Section 3-906, the court shall set the matter for
3 hearing to be held within 5 days, excluding Saturdays, Sundays,
4 and holidays. The court shall direct that notice of the time
5 and place of the hearing be given to the recipient, his
6 attorney, his guardian, the facility director, the person
7 having care and custody of the recipient, and to at least 2
8 persons whom the recipient may designate.

9 (b) Article VIII of this Chapter applies to hearings held
10 under this Section. The court shall determine whether the
11 recipient is: (i) subject to involuntary admission on an
12 inpatient basis; (ii) subject to involuntary admission on an
13 outpatient basis; or (iii) not subject to involuntary admission
14 on either an inpatient or outpatient basis. If the court finds
15 that the recipient is not subject to involuntary admission on
16 an inpatient or outpatient basis, the court shall enter an
17 order so finding and discharging the recipient. If the court
18 orders the discharge of a recipient who was adjudicated as
19 having mental illness pursuant to any prior statute of this
20 State or who was otherwise adjudicated to be under legal
21 disability, the court shall also enter an order restoring the
22 recipient to legal status without disability unless the court
23 finds that the recipient continues to be under legal
24 disability. A copy of any order discharging the recipient shall
25 be given to the recipient and to the facility director.

26 (b-1) If the court determines that the recipient is subject

1 to involuntary admission on an outpatient basis, the court
2 shall enter an appropriate order pursuant to Section 3-812.

3 (c) If the court determines that the recipient continues to
4 be subject to involuntary admission on an inpatient basis, the
5 court may continue or modify its original order in accordance
6 with this Act. Thereafter, no new petition for discharge may be
7 filed without leave of court.

8 (Source: P.A. 88-380.)

9 (405 ILCS 5/3-902) (from Ch. 91 1/2, par. 3-902)

10 Sec. 3-902. Director initiated discharge.

11 (a) The facility director may at any time discharge an
12 informal, voluntary, or minor recipient who is clinically
13 suitable for discharge.

14 (b) The facility director shall discharge a recipient
15 admitted upon court order under this Chapter or any prior
16 statute where he is no longer subject to involuntary admission
17 on an inpatient basis. If the facility director believes that
18 continuing treatment is advisable for such recipient, he shall
19 inform the recipient of his right to remain as an informal or
20 voluntary recipient. If the facility director determines that
21 the recipient is subject to involuntary admission on an
22 outpatient basis, he or she shall petition the court for such a
23 commitment pursuant to this Chapter.

24 (c) When a facility director discharges or changes the
25 status of a recipient pursuant to this Section he shall

1 promptly notify the clerk of the court which entered the
2 original order of the discharge or change in status. Upon
3 receipt of such notice, the clerk of the court shall note the
4 action taken in the court record. If the person being
5 discharged is a person under legal disability, the facility
6 director shall also submit a certificate regarding his legal
7 status without disability pursuant to Section 3-907.

8 (d) When the facility director determines that discharge is
9 appropriate for a recipient pursuant to this Section or Section
10 3-403 he or she shall notify the state's attorney of the county
11 in which the recipient resided immediately prior to his
12 admission to a mental health facility and the state's attorney
13 of the county where the last petition for commitment was filed
14 at least 48 hours prior to the discharge when either state's
15 attorney has requested in writing such notification on that
16 individual recipient or when the facility director regards a
17 recipient as a continuing threat to the peace and safety of the
18 community. Upon receipt of such notice, the state's attorney
19 may take any court action or notify such peace officers that he
20 deems appropriate. When the facility director determines that
21 discharge is appropriate for a recipient pursuant to this
22 Section or Section 3-403, he or she shall notify the person
23 whose petition pursuant to Section 3-701 resulted in the
24 current hospitalization of the recipient's discharge at least
25 48 hours prior to the discharge, if the petitioner has
26 requested in writing such notification on that individual

1 recipient.

2 (e) The facility director may grant a temporary release to
3 a recipient whose condition is not considered appropriate for
4 discharge where such release is considered to be clinically
5 appropriate, provided that the release does not endanger the
6 public safety.

7 (Source: P.A. 96-570, eff. 1-1-10.)

8 (405 ILCS 5/1-104.5 rep.)

9 (405 ILCS 5/3-704.1 rep.)

10 (405 ILCS 5/3-815 rep.)

11 Section 10. The Mental Health and Developmental
12 Disabilities Code is amended by repealing Sections 1-104.5,
13 3-704.1, and 3-815.

14 Section 15. The Mental Health and Developmental
15 Disabilities Confidentiality Act is amended by changing
16 Sections 4, 9.2, and 10 as follows:

17 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

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

21 (1) the parent or guardian of a recipient who is under
22 12 years of age;

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

1 (3) the parent or guardian of a recipient who is at
2 least 12 but under 18 years, if the recipient is informed
3 and does not object or if the therapist does not find that
4 there are compelling reasons for denying the access. The
5 parent or guardian who is denied access by either the
6 recipient or the therapist may petition a court for access
7 to the record. Nothing in this paragraph is intended to
8 prohibit the parent or guardian of a recipient who is at
9 least 12 but under 18 years from requesting and receiving
10 the following information: current physical and mental
11 condition, diagnosis, treatment needs, services provided,
12 and services needed, including medication, if any;

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

15 (5) an attorney or guardian ad litem who represents a
16 minor 12 years of age or older in any judicial or
17 administrative proceeding, provided that the court or
18 administrative hearing officer has entered an order
19 granting the attorney this right; ~~or~~

20 (6) an agent appointed under a recipient's power of
21 attorney for health care or for property, when the power of
22 attorney authorizes the access; ~~or~~

23 (7) an attorney-in-fact appointed under the Mental
24 Health Treatment Preference Declaration Act; or

25 (8) any person in whose care and custody the recipient
26 has been placed pursuant to Section 3-811 of the Mental

1 Health and Developmental Disabilities Code.

2 (b) Assistance in interpreting the record may be provided
3 without charge and shall be provided if the person inspecting
4 the record is under 18 years of age. However, access may in no
5 way be denied or limited if the person inspecting the record
6 refuses the assistance. A reasonable fee may be charged for
7 duplication of a record. However, when requested to do so in
8 writing by any indigent recipient, the custodian of the records
9 shall provide at no charge to the recipient, or to the
10 Guardianship and Advocacy Commission, the agency designated by
11 the Governor under Section 1 of the Protection and Advocacy for
12 Developmentally Disabled Persons Act or to any other
13 not-for-profit agency whose primary purpose is to provide free
14 legal services or advocacy for the indigent and who has
15 received written authorization from the recipient under
16 Section 5 of this Act to receive his records, one copy of any
17 records in its possession whose disclosure is authorized under
18 this Act.

19 (c) Any person entitled to access to a record under this
20 Section may submit a written statement concerning any disputed
21 or new information, which statement shall be entered into the
22 record. Whenever any disputed part of a record is disclosed,
23 any submitted statement relating thereto shall accompany the
24 disclosed part. Additionally, any person entitled to access may
25 request modification of any part of the record which he
26 believes is incorrect or misleading. If the request is refused,

1 the person may seek a court order to compel modification.

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

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

6 (740 ILCS 110/9.2)

7 Sec. 9.2. Interagency disclosure of recipient information.

8 For the purposes of continuity of care, the Department of Human
9 Services (as successor to the Department of Mental Health and
10 Developmental Disabilities), community agencies funded by the
11 Department of Human Services in that capacity, licensed private
12 hospitals receiving payments from the Department of Human
13 Services or the Department of Healthcare and Family Services,
14 State correctional facilities ~~prisons operated by the~~
15 ~~Department of Corrections~~, mental health facilities operated
16 by a county, and jails operated by any county of this State may
17 disclose a recipient's record or communications, without
18 consent, to each other, but only for the purpose of admission,
19 treatment, planning, or discharge. Entities shall not
20 redisclose any personally identifiable information, unless
21 necessary for admission, treatment, planning, or discharge of
22 the identified recipient to another setting. No records or
23 communications may be disclosed to a county jail or State
24 correctional facility ~~prison~~ pursuant to this Section unless
25 the Department has entered into a written agreement with the

1 county jail or State correctional facility ~~prison~~ requiring
2 that the county jail or State correctional facility ~~prison~~
3 adopt written policies and procedures designed to ensure that
4 the records and communications are disclosed only to those
5 persons employed by or under contract to the county jail or
6 State correctional facility ~~prison~~ who are involved in the
7 provision of mental health services to inmates and that the
8 records and communications are protected from further
9 disclosure.

10 (Source: P.A. 94-182, eff. 7-12-05.)

11 (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

12 Sec. 10. (a) Except as provided herein, in any civil,
13 criminal, administrative, or legislative proceeding, or in any
14 proceeding preliminary thereto, a recipient, and a therapist on
15 behalf and in the interest of a recipient, has the privilege to
16 refuse to disclose and to prevent the disclosure of the
17 recipient's record or communications.

18 (1) Records and communications may be disclosed in a
19 civil, criminal or administrative proceeding in which the
20 recipient introduces his mental condition or any aspect of
21 his services received for such condition as an element of
22 his claim or defense, if and only to the extent the court
23 in which the proceedings have been brought, or, in the case
24 of an administrative proceeding, the court to which an
25 appeal or other action for review of an administrative

1 determination may be taken, finds, after in camera
2 examination of testimony or other evidence, that it is
3 relevant, probative, not unduly prejudicial or
4 inflammatory, and otherwise clearly admissible; that other
5 satisfactory evidence is demonstrably unsatisfactory as
6 evidence of the facts sought to be established by such
7 evidence; and that disclosure is more important to the
8 interests of substantial justice than protection from
9 injury to the therapist-recipient relationship or to the
10 recipient or other whom disclosure is likely to harm.
11 Except in a criminal proceeding in which the recipient, who
12 is accused in that proceeding, raises the defense of
13 insanity, no record or communication between a therapist
14 and a recipient shall be deemed relevant for purposes of
15 this subsection, except the fact of treatment, the cost of
16 services and the ultimate diagnosis unless the party
17 seeking disclosure of the communication clearly
18 establishes in the trial court a compelling need for its
19 production. However, for purposes of this Act, in any
20 action brought or defended under the Illinois Marriage and
21 Dissolution of Marriage Act, or in any action in which pain
22 and suffering is an element of the claim, mental condition
23 shall not be deemed to be introduced merely by making such
24 claim and shall be deemed to be introduced only if the
25 recipient or a witness on his behalf first testifies
26 concerning the record or communication.

1 (2) Records or communications may be disclosed in a
2 civil proceeding after the recipient's death when the
3 recipient's physical or mental condition has been
4 introduced as an element of a claim or defense by any party
5 claiming or defending through or as a beneficiary of the
6 recipient, provided the court finds, after in camera
7 examination of the evidence, that it is relevant,
8 probative, and otherwise clearly admissible; that other
9 satisfactory evidence is not available regarding the facts
10 sought to be established by such evidence; and that
11 disclosure is more important to the interests of
12 substantial justice than protection from any injury which
13 disclosure is likely to cause.

14 (3) In the event of a claim made or an action filed by
15 a recipient, or, following the recipient's death, by any
16 party claiming as a beneficiary of the recipient for injury
17 caused in the course of providing services to such
18 recipient, the therapist and other persons whose actions
19 are alleged to have been the cause of injury may disclose
20 pertinent records and communications to an attorney or
21 attorneys engaged to render advice about and to provide
22 representation in connection with such matter and to
23 persons working under the supervision of such attorney or
24 attorneys, and may testify as to such records or
25 communication in any administrative, judicial or discovery
26 proceeding for the purpose of preparing and presenting a

1 defense against such claim or action.

2 (4) Records and communications made to or by a
3 therapist in the course of examination ordered by a court
4 for good cause shown may, if otherwise relevant and
5 admissible, be disclosed in a civil, criminal, or
6 administrative proceeding in which the recipient is a party
7 or in appropriate pretrial proceedings, provided such
8 court has found that the recipient has been as adequately
9 and as effectively as possible informed before submitting
10 to such examination that such records and communications
11 would not be considered confidential or privileged. Such
12 records and communications shall be admissible only as to
13 issues involving the recipient's physical or mental
14 condition and only to the extent that these are germane to
15 such proceedings.

16 (5) Records and communications may be disclosed in a
17 proceeding under the Probate Act of 1975, to determine a
18 recipient's competency or need for guardianship, provided
19 that the disclosure is made only with respect to that
20 issue.

21 (6) Records and communications may be disclosed when
22 such are made during treatment which the recipient is
23 ordered to undergo to render him fit to stand trial on a
24 criminal charge, provided that the disclosure is made only
25 with respect to the issue of fitness to stand trial.

26 (7) Records and communications of the recipient may be

1 disclosed in any civil or administrative proceeding
2 involving the validity of or benefits under a life,
3 accident, health or disability insurance policy or
4 certificate, or Health Care Service Plan Contract,
5 insuring the recipient, but only if and to the extent that
6 the recipient's mental condition, or treatment or services
7 in connection therewith, is a material element of any claim
8 or defense of any party, provided that information sought
9 or disclosed shall not be redisclosed except in connection
10 with the proceeding in which disclosure is made.

11 (8) Records or communications may be disclosed when
12 such are relevant to a matter in issue in any action
13 brought under this Act and proceedings preliminary
14 thereto, provided that any information so disclosed shall
15 not be utilized for any other purpose nor be redisclosed
16 except in connection with such action or preliminary
17 proceedings.

18 (9) Records and communications of the recipient may be
19 disclosed in investigations of and trials for homicide when
20 the disclosure relates directly to the fact or immediate
21 circumstances of the homicide.

22 (10) Records and communications of a deceased
23 recipient may be disclosed to a coroner conducting a
24 preliminary investigation into the recipient's death under
25 Section 3-3013 of the Counties Code. However, records and
26 communications of the deceased recipient disclosed in an

1 investigation shall be limited solely to the deceased
2 recipient's records and communications relating to the
3 factual circumstances of the incident being investigated
4 in a mental health facility.

5 (11) Records and communications of a recipient shall be
6 disclosed in a proceeding where a petition or motion is
7 filed under the Juvenile Court Act of 1987 and the
8 recipient is named as a parent, guardian, or legal
9 custodian of a minor who is the subject of a petition for
10 wardship as described in Section 2-3 of that Act or a minor
11 who is the subject of a petition for wardship as described
12 in Section 2-4 of that Act alleging the minor is abused,
13 neglected, or dependent or the recipient is named as a
14 parent of a child who is the subject of a petition,
15 supplemental petition, or motion to appoint a guardian with
16 the power to consent to adoption under Section 2-29 of the
17 Juvenile Court Act of 1987.

18 (12) Records and communications of a recipient may be
19 disclosed when disclosure is necessary to collect sums or
20 receive third party payment representing charges for
21 mental health or developmental disabilities services
22 provided by a therapist or agency to a recipient; however,
23 disclosure shall be limited to information needed to pursue
24 collection, and the information so disclosed may not be
25 used for any other purposes nor may it be redisclosed
26 except in connection with collection activities. Whenever

1 records are disclosed pursuant to this subdivision (12),
2 the recipient of the records shall be advised in writing
3 that any person who discloses mental health records and
4 communications in violation of this Act may be subject to
5 civil liability pursuant to Section 15 of this Act or to
6 criminal penalties pursuant to Section 16 of this Act or
7 both.

8 (b) Before a disclosure is made under subsection (a), any
9 party to the proceeding or any other interested person may
10 request an in camera review of the record or communications to
11 be disclosed. The court or agency conducting the proceeding may
12 hold an in camera review on its own motion. When, contrary to
13 the express wish of the recipient, the therapist asserts a
14 privilege on behalf and in the interest of a recipient, the
15 court may require that the therapist, in an in camera hearing,
16 establish that disclosure is not in the best interest of the
17 recipient. The court or agency may prevent disclosure or limit
18 disclosure to the extent that other admissible evidence is
19 sufficient to establish the facts in issue. The court or agency
20 may enter such orders as may be necessary in order to protect
21 the confidentiality, privacy, and safety of the recipient or of
22 other persons. Any order to disclose or to not disclose shall
23 be considered a final order for purposes of appeal and shall be
24 subject to interlocutory appeal.

25 (c) A recipient's records and communications may be
26 disclosed to a duly authorized committee, commission or

1 subcommittee of the General Assembly which possesses subpoena
2 and hearing powers, upon a written request approved by a
3 majority vote of the committee, commission or subcommittee
4 members. The committee, commission or subcommittee may request
5 records only for the purposes of investigating or studying
6 possible violations of recipient rights. The request shall
7 state the purpose for which disclosure is sought.

8 The facility shall notify the recipient, or his guardian,
9 and therapist in writing of any disclosure request under this
10 subsection within 5 business days after such request. Such
11 notification shall also inform the recipient, or guardian, and
12 therapist of their right to object to the disclosure within 10
13 business days after receipt of the notification and shall
14 include the name, address and telephone number of the
15 committee, commission or subcommittee member or staff person
16 with whom an objection shall be filed. If no objection has been
17 filed within 15 business days after the request for disclosure,
18 the facility shall disclose the records and communications to
19 the committee, commission or subcommittee. If an objection has
20 been filed within 15 business days after the request for
21 disclosure, the facility shall disclose the records and
22 communications only after the committee, commission or
23 subcommittee has permitted the recipient, guardian or
24 therapist to present his objection in person before it and has
25 renewed its request for disclosure by a majority vote of its
26 members.

1 Disclosure under this subsection shall not occur until all
2 personally identifiable data of the recipient and provider are
3 removed from the records and communications. Disclosure under
4 this subsection shall not occur in any public proceeding.

5 (d) No party to any proceeding described under paragraphs
6 (1), (2), (3), (4), (7), or (8) of subsection (a) of this
7 Section, nor his or her attorney, shall serve a subpoena
8 seeking to obtain access to records or communications under
9 this Act unless the subpoena is accompanied by a written order
10 issued by a judge, authorizing the disclosure of the records or
11 the issuance of the subpoena. No such written order shall be
12 issued without written notice of the motion to the recipient
13 and the treatment provider. Prior to issuance of the order,
14 each party or other person entitled to notice shall be
15 permitted an opportunity to be heard pursuant to subsection (b)
16 of this Section. No person shall comply with a subpoena for
17 records or communications under this Act, unless the subpoena
18 is accompanied by a written order authorizing the issuance of
19 the subpoena or the disclosure of the records. Each subpoena
20 duces tecum issued by a court or administrative agency or
21 served on any person pursuant to this subsection (d) shall
22 include the following language: "No person shall comply with a
23 subpoena for mental health records or communications pursuant
24 to Section 10 of the Mental Health and Developmental
25 Disabilities Confidentiality Act, 740 ILCS 110/10, unless the
26 subpoena is accompanied by a written order that authorizes the

1 issuance of the subpoena and the disclosure of records or
2 communications."

3 (e) When a person has been transported by a peace officer
4 to a mental health facility, then upon the request of a peace
5 officer, if the person is allowed to leave the mental health
6 facility within 48 hours of arrival, excluding Saturdays,
7 Sundays, and holidays, the facility director shall notify the
8 local law enforcement authority prior to the release of the
9 person. The local law enforcement authority may re-disclose the
10 information as necessary to alert the appropriate enforcement
11 or prosecuting authority.

12 (f) A recipient's records and communications shall be
13 disclosed to the Inspector General of the Department of Human
14 Services within 10 business days of a request by the Inspector
15 General (i) in the course of an investigation authorized by the
16 Department of Human Services Act and applicable rule or (ii)
17 during the course of an assessment authorized by the Abuse of
18 Adults with Disabilities Intervention Act and applicable rule.
19 The request shall be in writing and signed by the Inspector
20 General or his or her designee. The request shall state the
21 purpose for which disclosure is sought. Any person who
22 knowingly and willfully refuses to comply with such a request
23 is guilty of a Class A misdemeanor. A recipient's records and
24 communications shall also be disclosed pursuant to subsection
25 (g-5) of Section 1-17 of the Department of Human Services Act
26 in testimony at health care worker registry hearings or

1 preliminary proceedings when such are relevant to the matter in
2 issue, provided that any information so disclosed shall not be
3 utilized for any other purpose nor be redisclosed except in
4 connection with such action or preliminary proceedings.

5 (Source: P.A. 96-406, eff. 8-13-09.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.