



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB6573

by Rep. David R. Leitch

#### SYNOPSIS AS INTRODUCED:

740 ILCS 110/12

from Ch. 91 1/2, par. 812

405 ILCS 5/6-103.2 rep.

Amends the Mental Health and Developmental Disabilities Code. Repeals the Section providing that if a person 14 years or older is determined to be a person with a developmental disability by a physician, clinical psychologist, or qualified examiner, the physician, clinical psychologist, or qualified examiner shall notify the Department of Health and Human Services within 7 days who then shall notify the Department of State Police, if appropriate, to determine continuing eligibility under the Firearm Owners Identification Card Act. Makes a conforming change in the Mental Health and Developmental Disabilities Confidentiality Act.

LRB099 21084 SLF 46272 b

1 AN ACT concerning disclosures for firearm possession  
2 eligibility.

3 **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5 Section 5. The Mental Health and Developmental  
6 Disabilities Confidentiality Act is amended by changing  
7 Section 12 as follows:

8 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

9 Sec. 12. (a) If the United States Secret Service or the  
10 Department of State Police requests information from a mental  
11 health or developmental disability facility, as defined in  
12 Section 1-107 and 1-114 of the Mental Health and Developmental  
13 Disabilities Code, relating to a specific recipient and the  
14 facility director determines that disclosure of such  
15 information may be necessary to protect the life of, or to  
16 prevent the infliction of great bodily harm to, a public  
17 official, or a person under the protection of the United States  
18 Secret Service, only the following information may be  
19 disclosed: the recipient's name, address, and age and the date  
20 of any admission to or discharge from a facility; and any  
21 information which would indicate whether or not the recipient  
22 has a history of violence or presents a danger of violence to  
23 the person under protection. Any information so disclosed shall

1 be used for investigative purposes only and shall not be  
2 publicly disseminated. Any person participating in good faith  
3 in the disclosure of such information in accordance with this  
4 provision shall have immunity from any liability, civil,  
5 criminal or otherwise, if such information is disclosed relying  
6 upon the representation of an officer of the United States  
7 Secret Service or the Department of State Police that a person  
8 is under the protection of the United States Secret Service or  
9 is a public official.

10 For the purpose of this subsection (a), the term "public  
11 official" means the Governor, Lieutenant Governor, Attorney  
12 General, Secretary of State, State Comptroller, State  
13 Treasurer, member of the General Assembly, member of the United  
14 States Congress, Judge of the United States as defined in 28  
15 U.S.C. 451, Justice of the United States as defined in 28  
16 U.S.C. 451, United States Magistrate Judge as defined in 28  
17 U.S.C. 639, Bankruptcy Judge appointed under 28 U.S.C. 152, or  
18 Supreme, Appellate, Circuit, or Associate Judge of the State of  
19 Illinois. The term shall also include the spouse, child or  
20 children of a public official.

21 (b) The Department of Human Services (acting as successor  
22 to the Department of Mental Health and Developmental  
23 Disabilities) and all public or private hospitals and mental  
24 health facilities are required, as hereafter described in this  
25 subsection, to furnish the Department of State Police only such  
26 information as may be required for the sole purpose of

1 determining whether an individual who may be or may have been a  
2 patient is disqualified because of that status from receiving  
3 or retaining a Firearm Owner's Identification Card or falls  
4 within the federal prohibitors under subsection (e), (f), (g),  
5 (r), (s), or (t) of Section 8 of the Firearm Owners  
6 Identification Card Act, or falls within the federal  
7 prohibitors in 18 U.S.C. 922(g) and (n). All physicians,  
8 clinical psychologists, or qualified examiners at public or  
9 private mental health facilities or parts thereof as defined in  
10 this subsection shall, in the form and manner required by the  
11 Department, provide notice directly to the Department of Human  
12 Services, or to his or her employer who shall then report to  
13 the Department, within 24 hours after determining that a person  
14 poses a clear and present danger to himself, herself, or  
15 others, ~~or within 7 days after a person 14 years or older is~~  
16 ~~determined to be a person with a developmental disability by a~~  
17 ~~physician, clinical psychologist, or qualified examiner as~~  
18 ~~described in Section 1.1 of the Firearm Owners Identification~~  
19 ~~Card Act.~~ If a person is a patient as described in clause (1)  
20 of the definition of "patient" in Section 1.1 of the Firearm  
21 Owners Identification Card Act, this information shall be  
22 furnished within 7 days after admission to a public or private  
23 hospital or mental health facility or the provision of  
24 services. Any such information disclosed under this subsection  
25 shall remain privileged and confidential, and shall not be  
26 redisclosed, except as required by subsection (e) of Section

1 3.1 of the Firearm Owners Identification Card Act, nor utilized  
2 for any other purpose. The method of requiring the providing of  
3 such information shall guarantee that no information is  
4 released beyond what is necessary for this purpose. In  
5 addition, the information disclosed shall be provided by the  
6 Department within the time period established by Section 24-3  
7 of the Criminal Code of 2012 regarding the delivery of  
8 firearms. The method used shall be sufficient to provide the  
9 necessary information within the prescribed time period, which  
10 may include periodically providing lists to the Department of  
11 Human Services or any public or private hospital or mental  
12 health facility of Firearm Owner's Identification Card  
13 applicants on which the Department or hospital shall indicate  
14 the identities of those individuals who are to its knowledge  
15 disqualified from having a Firearm Owner's Identification Card  
16 for reasons described herein. The Department may provide for a  
17 centralized source of information for the State on this subject  
18 under its jurisdiction. The identity of the person reporting  
19 under this subsection shall not be disclosed to the subject of  
20 the report. For the purposes of this subsection, the physician,  
21 clinical psychologist, or qualified examiner making the  
22 determination and his or her employer shall not be held  
23 criminally, civilly, or professionally liable for making or not  
24 making the notification required under this subsection, except  
25 for willful or wanton misconduct.

26 Any person, institution, or agency, under this Act,

1 participating in good faith in the reporting or disclosure of  
2 records and communications otherwise in accordance with this  
3 provision or with rules, regulations or guidelines issued by  
4 the Department shall have immunity from any liability, civil,  
5 criminal or otherwise, that might result by reason of the  
6 action. For the purpose of any proceeding, civil or criminal,  
7 arising out of a report or disclosure in accordance with this  
8 provision, the good faith of any person, institution, or agency  
9 so reporting or disclosing shall be presumed. The full extent  
10 of the immunity provided in this subsection (b) shall apply to  
11 any person, institution or agency that fails to make a report  
12 or disclosure in the good faith belief that the report or  
13 disclosure would violate federal regulations governing the  
14 confidentiality of alcohol and drug abuse patient records  
15 implementing 42 U.S.C. 290dd-3 and 290ee-3.

16 For purposes of this subsection (b) only, the following  
17 terms shall have the meaning prescribed:

18 (1) (Blank).

19 (1.3) "Clear and present danger" has the meaning as  
20 defined in Section 1.1 of the Firearm Owners Identification  
21 Card Act.

22 (1.5) (Blank). ~~"Person with a developmental~~  
23 ~~disability" has the meaning as defined in Section 1.1 of~~  
24 ~~the Firearm Owners Identification Card Act.~~

25 (2) "Patient" has the meaning as defined in Section 1.1  
26 of the Firearm Owners Identification Card Act.

1           (3) "Mental health facility" has the meaning as defined  
2           in Section 1.1 of the Firearm Owners Identification Card  
3           Act.

4           (c) Upon the request of a peace officer who takes a person  
5           into custody and transports such person to a mental health or  
6           developmental disability facility pursuant to Section 3-606 or  
7           4-404 of the Mental Health and Developmental Disabilities Code  
8           or who transports a person from such facility, a facility  
9           director shall furnish said peace officer the name, address,  
10          age and name of the nearest relative of the person transported  
11          to or from the mental health or developmental disability  
12          facility. In no case shall the facility director disclose to  
13          the peace officer any information relating to the diagnosis,  
14          treatment or evaluation of the person's mental or physical  
15          health.

16          For the purposes of this subsection (c), the terms "mental  
17          health or developmental disability facility", "peace officer"  
18          and "facility director" shall have the meanings ascribed to  
19          them in the Mental Health and Developmental Disabilities Code.

20          (d) Upon the request of a peace officer or prosecuting  
21          authority who is conducting a bona fide investigation of a  
22          criminal offense, or attempting to apprehend a fugitive from  
23          justice, a facility director may disclose whether a person is  
24          present at the facility. Upon request of a peace officer or  
25          prosecuting authority who has a valid forcible felony warrant  
26          issued, a facility director shall disclose: (1) whether the

1 person who is the subject of the warrant is present at the  
2 facility and (2) the date of that person's discharge or future  
3 discharge from the facility. The requesting peace officer or  
4 prosecuting authority must furnish a case number and the  
5 purpose of the investigation or an outstanding arrest warrant  
6 at the time of the request. Any person, institution, or agency  
7 participating in good faith in disclosing such information in  
8 accordance with this subsection (d) is immune from any  
9 liability, civil, criminal or otherwise, that might result by  
10 reason of the action.

11 (Source: P.A. 98-63, eff. 7-9-13; 99-29, eff. 7-10-15; 99-143,  
12 eff. 7-27-15; revised 10-22-15.)

13 (405 ILCS 5/6-103.2 rep.)

14 Section 10. The Mental Health and Developmental  
15 Disabilities Code is amended by repealing Section 6-103.2.