

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 1-109,  
6 1-129, 2-107, 2-107.1, 3-611, and 3-807 and by adding Section  
7 1-103.5 as follows:

8 (405 ILCS 5/1-103.5 new)

9 Sec. 1-103.5. Confinement. "Confinement", with respect to  
10 a mental health facility, means that an individual is  
11 prevented or otherwise not permitted to leave the facility.

12 (405 ILCS 5/1-109) (from Ch. 91 1/2, par. 1-109)

13 Sec. 1-109. "Discharge" means the full and physical  
14 release of any person admitted or otherwise detained under  
15 this Act from treatment, habilitation, or care and custody.

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

17 (405 ILCS 5/1-129)

18 Sec. 1-129. Mental illness. "Mental illness" means a  
19 mental, or emotional disorder that substantially impairs a  
20 person's thought, perception of reality, emotional process,  
21 judgment, behavior, or ability to cope with the ordinary

1 demands of life, but does not include a developmental  
2 disability, a neurocognitive disorder ~~dementia or Alzheimer's~~  
3 ~~disease~~ absent psychosis, a substance use disorder, or an  
4 abnormality manifested only by repeated criminal or otherwise  
5 antisocial conduct.

6 (Source: P.A. 100-759, eff. 1-1-19.)

7 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

8 Sec. 2-107. Refusal of services; informing of risks.

9 (a) An adult recipient of services or the recipient's  
10 guardian, if the recipient is under guardianship, and the  
11 recipient's substitute decision maker, if any, must be  
12 informed of the recipient's right to refuse medication or  
13 electroconvulsive therapy. The recipient and the recipient's  
14 guardian or substitute decision maker shall be given the  
15 opportunity to refuse generally accepted mental health or  
16 developmental disability services, including but not limited  
17 to medication or electroconvulsive therapy. If such services  
18 are refused, they shall not be given unless such services are  
19 necessary to prevent the recipient from causing serious and  
20 imminent physical harm to the recipient or others and no less  
21 restrictive alternative is available. The facility director  
22 shall inform a recipient, guardian, or substitute decision  
23 maker, if any, who refuses such services of alternate services  
24 available and the risks of such alternate services, as well as  
25 the possible consequences to the recipient of refusal of such

1 services.

2 (b) Psychotropic medication or electroconvulsive therapy  
3 may be administered under this Section for up to 24 hours only  
4 if the circumstances leading up to the need for emergency  
5 treatment are set forth in writing in the recipient's record.

6 (c) Administration of medication or electroconvulsive  
7 therapy may not be continued unless the need for such  
8 treatment is redetermined at least every 24 hours based upon a  
9 personal examination of the recipient by a physician or a  
10 nurse under the supervision of a physician and the  
11 circumstances demonstrating that need are set forth in writing  
12 in the recipient's record.

13 (d) Neither psychotropic medication nor electroconvulsive  
14 therapy may be administered under this Section for a period in  
15 excess of 72 hours, excluding Saturdays, Sundays, and  
16 holidays, unless a petition is filed under Section 2-107.1 and  
17 the treatment continues to be necessary under subsection (a)  
18 of this Section. Once the petition has been filed, treatment  
19 may continue in compliance with subsections (a), (b), and (c)  
20 of this Section until the final outcome of the hearing on the  
21 petition.

22 (e) The Department shall issue rules designed to ensure  
23 ~~insure~~ that in State-operated mental health facilities  
24 psychotropic medication and electroconvulsive therapy are  
25 administered in accordance with this Section and only when  
26 appropriately authorized and monitored by a physician or a

1 nurse under the supervision of a physician in accordance with  
2 accepted medical practice. The facility director of each  
3 mental health facility not operated by the State shall issue  
4 rules designed to ensure ~~insure~~ that in that facility  
5 psychotropic medication and electroconvulsive therapy are  
6 administered in accordance with this Section and only when  
7 appropriately authorized and monitored by a physician or a  
8 nurse under the supervision of a physician in accordance with  
9 accepted medical practice. Such rules shall be available for  
10 public inspection and copying during normal business hours.

11 (f) The provisions of this Section with respect to the  
12 emergency administration of psychotropic medication and  
13 electroconvulsive therapy do not apply to facilities licensed  
14 under the Nursing Home Care Act, the Specialized Mental Health  
15 Rehabilitation Act of 2013, the ID/DD Community Care Act, or  
16 the MC/DD Act.

17 (g) Under no circumstances may long-acting psychotropic  
18 medications be administered under this Section.

19 (h) Whenever psychotropic medication or electroconvulsive  
20 therapy is refused pursuant to subsection (a) of this Section  
21 at least once that day, the physician or advanced practice  
22 psychiatric nurse shall determine and state in writing the  
23 reasons why the recipient did not meet the criteria for  
24 administration of medication or electroconvulsive therapy  
25 under subsection (a) and whether the recipient meets the  
26 standard for administration of psychotropic medication or

1 electroconvulsive therapy under Section 2-107.1 of this Code.  
2 If the physician or advanced practice psychiatric nurse  
3 determines that the recipient meets the standard for  
4 administration of psychotropic medication or electroconvulsive  
5 therapy under Section 2-107.1, the facility director or his or  
6 her designee shall petition the court for administration of  
7 psychotropic medication or electroconvulsive therapy pursuant  
8 to that Section unless the facility director or his or her  
9 designee states in writing in the recipient's record why the  
10 filing of such a petition is not warranted. This subsection  
11 (h) applies only to State-operated mental health facilities.

12 (i) The Department shall conduct annual trainings for all  
13 physicians and registered nurses working in State-operated  
14 mental health facilities on the appropriate use of emergency  
15 administration of psychotropic medication and  
16 electroconvulsive therapy, standards for their use, and the  
17 methods of authorization under this Section.

18 (Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

19 (405 ILCS 5/2-107.1) (from Ch. 91 1/2, par. 2-107.1)

20 Sec. 2-107.1. Administration of psychotropic medication  
21 and electroconvulsive therapy upon application to a court.

22 (a) (Blank).

23 (a-5) Notwithstanding the provisions of Section 2-107 of  
24 this Code, psychotropic medication and electroconvulsive  
25 therapy may be administered to an adult recipient of services

1 on an inpatient or outpatient basis without the informed  
2 consent of the recipient under the following standards:

3 (1) Any person 18 years of age or older, including any  
4 guardian, may petition the circuit court for an order  
5 authorizing the administration of psychotropic medication  
6 and electroconvulsive therapy to a recipient of services.  
7 The petition shall state that the petitioner has made a  
8 good faith attempt to determine whether the recipient has  
9 executed a power of attorney for health care under the  
10 Powers of Attorney for Health Care Law or a declaration  
11 for mental health treatment under the Mental Health  
12 Treatment Preference Declaration Act and to obtain copies  
13 of these instruments if they exist. If either of the  
14 above-named instruments is available to the petitioner,  
15 the instrument or a copy of the instrument shall be  
16 attached to the petition as an exhibit. The petitioner  
17 shall deliver a copy of the petition<sup>7</sup> and notice of the  
18 time and place of the hearing<sup>7</sup> to the respondent, his or  
19 her attorney, any known agent or attorney-in-fact, if any,  
20 and the guardian, if any, no later than 3 days prior to the  
21 date of the hearing. Service of the petition and notice of  
22 the time and place of the hearing may be made upon parties  
23 other than the respondent by transmitting them via  
24 facsimile machine or by operation of an electronic filing  
25 manager service authorized by the Supreme Court. Service  
26 of the petition and notice of the time and place of the

1 hearing upon a respondent may be accomplished by any one  
2 of the following:

3 (A) Personal service.

4 (B) Handing a copy of the petition and notice to  
5 the respondent together with a waiver of personal  
6 service. The waiver may be returned to the party  
7 delivering the petition and notice. If the party  
8 delivering the petition and notice to the respondent  
9 does not receive the waiver, the service must be by  
10 personal service.

11 (C) If the respondent is confined to a mental  
12 health facility, handing a copy of the petition and  
13 notice to the respondent, provided the party  
14 delivering the petition and notice to the respondent  
15 files within 24 hours a verified statement naming the  
16 party served and stating the means, place, date, and  
17 time of service. If no verification of service is  
18 filed before the matter is set for hearing, then  
19 service must be made by personal service. ~~to the~~  
20 ~~respondent or other party. Upon receipt of the~~  
21 ~~petition and notice, the party served, or the person~~  
22 ~~delivering the petition and notice to the party~~  
23 ~~served, shall acknowledge service. If the party~~  
24 ~~sending the petition and notice does not receive~~  
25 ~~acknowledgement of service within 24 hours, service~~  
26 ~~must be made by personal service.~~

1           A petition requesting that the court authorize  
2           treatment with psychotropic medication shall specify the  
3           full names of the medications and anticipated range of  
4           dosage that comprise such treatment. The petition also may  
5           include a request that the court authorize alternative or  
6           alternate treatments with psychotropic medications, but  
7           only where the petition sets forth the psychotropic  
8           medications and the anticipated range of dosages for each  
9           alternative or alternate and each combination of  
10           psychotropic medications that may be administered  
11           simultaneously.

12           The petition may include a request that the court  
13           authorize such testing and procedures as may be essential  
14           for the safe and effective administration of the  
15           psychotropic medication or electroconvulsive therapy  
16           sought to be administered, but only where the petition  
17           sets forth the specific testing and procedures sought to  
18           be administered.

19           If a hearing is requested to be held immediately  
20           following the hearing on a petition for involuntary  
21           admission, then the notice requirement shall be the same  
22           as that for the hearing on the petition for involuntary  
23           admission, and the petition filed pursuant to this Section  
24           shall be filed with the petition for involuntary  
25           admission.

26           (2) The court shall hold a hearing within 7 days of the

1 filing of the petition. The People, the petitioner, or the  
2 respondent shall be entitled to a continuance of up to 7  
3 days as of right. An additional continuance of not more  
4 than 7 days may be granted to any party (i) upon a showing  
5 that the continuance is needed in order to adequately  
6 prepare for or present evidence in a hearing under this  
7 Section or (ii) under exceptional circumstances. The court  
8 may grant an additional continuance not to exceed 21 days  
9 when, in its discretion, the court determines that such a  
10 continuance is necessary in order to provide the recipient  
11 with an examination pursuant to Section 3-803 or 3-804 of  
12 this Act, to provide the recipient with a trial by jury as  
13 provided in Section 3-802 of this Act, or to arrange for  
14 the substitution of counsel as provided for by the  
15 Illinois Supreme Court Rules. The hearing shall be  
16 separate from a judicial proceeding held to determine  
17 whether a person is subject to involuntary admission but  
18 may be heard immediately preceding or following such a  
19 judicial proceeding and may be heard by the same trier of  
20 fact or law as in that judicial proceeding.

21 (3) Unless otherwise provided herein, the procedures  
22 set forth in Article VIII of Chapter III of this Act,  
23 including the provisions regarding appointment of counsel,  
24 shall govern hearings held under this subsection (a-5).

25 (4) Psychotropic medication and electroconvulsive  
26 therapy may be administered to the recipient if and only

1 if it has been determined by clear and convincing evidence  
2 that: ~~all of the following factors are present. In~~  
3 ~~determining whether a person meets the criteria specified~~  
4 ~~in the following paragraphs (A) through (C), the court may~~  
5 ~~consider evidence of the person's history of serious~~  
6 ~~violence, repeated past pattern of specific behavior,~~  
7 ~~actions related to the person's illness, or past outcomes~~  
8 ~~of various treatment options.~~

9 (A) ~~That~~ the recipient has a serious mental  
10 illness or developmental disability;~~:-~~

11 (B) ~~That~~ because of said mental illness or  
12 developmental disability, the recipient currently  
13 exhibits any one of the following: (i) deterioration  
14 of his or her ability to function, as compared to the  
15 recipient's ability to function prior to the current  
16 onset of symptoms of the mental illness or disability  
17 for which treatment is presently sought, (ii)  
18 suffering, or (iii) threatening behavior;~~:-~~

19 (C) ~~That~~ the illness or disability has existed for  
20 a period marked by the continuing presence of the  
21 symptoms set forth in item (B) of this subdivision (4)  
22 or the repeated episodic occurrence of these  
23 symptoms;~~:-~~

24 (D) ~~That~~ the benefits of the treatment outweigh  
25 the harm;~~:-~~

26 (E) ~~That~~ the recipient lacks the capacity to make

1 a reasoned decision about the treatment;~~;~~

2 (F) ~~That~~ other less restrictive services have been  
3 explored and found inappropriate; ~~and~~.

4 (G) if ~~if~~ the petition seeks authorization for  
5 testing and other procedures, ~~that~~ such testing and  
6 procedures are essential for the safe and effective  
7 administration of the treatment.

8 (4.5) In determining whether there is clear and  
9 convincing evidence, the court may consider evidence  
10 presented, if any, about a recipient's history of serious  
11 violence, repeated past pattern of specific behavior  
12 related to the recipient's illness, or outcomes of past  
13 treatments.

14 (5) In no event shall an order issued under this  
15 Section be effective for more than 90 days. A second  
16 90-day period of involuntary treatment may be authorized  
17 pursuant to a hearing that complies with the standards and  
18 procedures of this subsection (a-5). Thereafter,  
19 additional 180-day periods of involuntary treatment may be  
20 authorized pursuant to the standards and procedures of  
21 this Section without limit. If a new petition to authorize  
22 the administration of psychotropic medication or  
23 electroconvulsive therapy is filed at least 15 days prior  
24 to the expiration of the prior order, and if any  
25 continuance of the hearing is agreed to by the recipient,  
26 the administration of the treatment may continue in

1           accordance with the prior order pending the completion of  
2           a hearing under this Section.

3           (6) An order issued under this subsection (a-5) shall  
4           designate the persons authorized to administer the  
5           treatment under the standards and procedures of this  
6           subsection (a-5). Those persons shall have complete  
7           discretion not to administer any treatment authorized  
8           under this Section. The order shall also specify the  
9           medications and the anticipated range of dosages that have  
10          been authorized ~~and may include a list of any alternative~~  
11          ~~medications and range of dosages deemed necessary.~~ In  
12          addition, the order may authorize the administration of  
13          any alternative or alternate treatment that is requested  
14          in the petition and for which the court finds clear and  
15          convincing evidence that the benefits of the alternative  
16          or alternate treatment outweigh the harm and the recipient  
17          lacks the capacity to make a reasoned decision about the  
18          treatment. The medications and the anticipated range of  
19          dosages for any alternative or alternate treatment that  
20          the court authorizes shall be included in the order. Where  
21          the simultaneous use of multiple psychotropic medications  
22          is authorized, the order shall specify the combinations  
23          that are authorized.

24          (a-10) The court may, in its discretion, appoint a  
25          guardian ad litem for a recipient before the court or  
26          authorize an existing guardian of the person to monitor

1 treatment and compliance with court orders under this Section.

2 (b) A guardian may be authorized to consent to the  
3 administration of psychotropic medication or electroconvulsive  
4 therapy to an objecting recipient only under the standards and  
5 procedures of subsection (a-5).

6 (c) Notwithstanding any other provision of this Section, a  
7 guardian may consent to the administration of psychotropic  
8 medication or electroconvulsive therapy to a non-objecting  
9 recipient under Article XIa of the Probate Act of 1975.

10 (d) Nothing in this Section shall prevent the  
11 administration of psychotropic medication ~~or electroconvulsive~~  
12 ~~therapy~~ to recipients in an emergency under Section 2-107 of  
13 this Act.

14 (e) Notwithstanding any of the provisions of this Section,  
15 psychotropic medication or electroconvulsive therapy may be  
16 administered pursuant to a power of attorney for health care  
17 under the Powers of Attorney for Health Care Law or a  
18 declaration for mental health treatment under the Mental  
19 Health Treatment Preference Declaration Act over the objection  
20 of the recipient if the recipient has not revoked the power of  
21 attorney or declaration for mental health treatment as  
22 provided in the relevant statute.

23 (f) The Department shall conduct annual trainings for  
24 physicians and registered nurses working in State-operated  
25 mental health facilities on the appropriate use of  
26 psychotropic medication and electroconvulsive therapy,

1 standards for their use, and the preparation of court  
2 petitions under this Section before any such psychiatrists or  
3 advanced practice psychiatric nurses may petition the court or  
4 testify at a hearing under this Section.

5 (Source: P.A. 100-710, eff. 8-3-18.)

6 (405 ILCS 5/3-611) (from Ch. 91 1/2, par. 3-611)

7 Sec. 3-611. Filing petition, first certificate, and proof  
8 of service.

9 (a) Within 24 hours, excluding Saturdays, Sundays and  
10 holidays, after the respondent's admission under this Article,  
11 the facility director of the facility shall file 2 copies of  
12 the petition, the first certificate, and proof of service of  
13 the petition and statement of rights upon the respondent with  
14 the court in the county in which the facility is located.

15 (b) Upon completion of the second certificate, the  
16 facility director shall promptly file it with the court and  
17 provide a copy to the respondent.

18 (c) The facility director shall make copies of the  
19 certificates available to the attorneys for the parties upon  
20 request.

21 (d) Upon the filing of the petition and first certificate,  
22 the court shall set a hearing to be held within 5 days,  
23 excluding Saturdays, Sundays and holidays, after receipt of  
24 the petition. The court shall direct that notice of the time  
25 and place of the hearing be served upon the respondent, his

1 responsible relatives, and the persons entitled to receive a  
2 copy of the petition pursuant to Section 3-609.

3 (e) For purposes of this Section, (1) a respondent is  
4 admitted to a mental health facility at the earlier of the  
5 respondent's confinement or receipt of treatment and (2) a  
6 respondent who is ordered discharged in accordance with  
7 Section 3-809 or subsection (b) of Section 3-901, or  
8 discharged upon notice by the facility director as provided by  
9 subsection (a) of Section 3-903, remains admitted to a mental  
10 health facility until the respondent is physically released  
11 from the mental health facility and thereafter physically  
12 enters a mental health facility.

13 (Source: P.A. 98-865, eff. 8-8-14.)

14 (405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

15 Sec. 3-807. Testimony. No respondent may be found subject  
16 to involuntary admission on an inpatient or outpatient basis  
17 unless at least one psychiatrist, clinical social worker,  
18 clinical psychologist, advanced practice psychiatric nurse, or  
19 qualified examiner who has examined the respondent testifies  
20 in person at the hearing. No administration of psychotropic  
21 medication or electroconvulsive therapy without the informed  
22 consent of the recipient may be authorized unless at least one  
23 psychiatrist or advanced practice psychiatric nurse who has  
24 examined the recipient testifies in person at the hearing. The  
25 respondent may waive the requirement of the testimony subject

1 to the approval of the court.

2 (Source: P.A. 101-587, eff. 1-1-20.)