



Rep. Lindsey LaPointe

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10200HB3977ham003

LRB102 15075 LNS 37134 a

1 AMENDMENT TO HOUSE BILL 3977

2 AMENDMENT NO. _____. Amend House Bill 3977, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the First
6 Responders Behavioral Healthcare Bill of Rights Act.

7 Section 5. Purposes. The General Assembly recognizes the
8 difficult nature of the job of first responder, including
9 trauma endured by first responders in the performance of their
10 duties. It is the intent of the General Assembly to ensure that
11 first responders, including police, firefighters, and
12 emergency medical technicians across this State, have full
13 access to supportive and responsive behavioral health services
14 and treatment. The General Assembly recognizes that these
15 services should be responsive to the individual's needs and
16 must be kept confidential. The General Assembly recognizes

1 that the administration and provision of these services both
2 recognize and reduce the historical barrier of stigma and a
3 lack of confidentiality that first responders face when
4 attempting to access behavioral health services and treatment.

5 Section 10. Definitions. In this Act:

6 "Behavioral health" means mental health, health relating
7 to substance use, or both.

8 "Behavioral healthcare" means services, treatment,
9 medication, and other measures to overcome, mitigate, or
10 prevent a behavioral health issue. Such services, treatment,
11 medication, and other measures qualify as "behavioral
12 healthcare" even if there is no formal diagnosis of a specific
13 condition.

14 "Employee" includes a first responder employed by a unit
15 of local government, school district, public or private
16 hospital, or ambulance service. "Employee" also includes a
17 public safety telecommunicator.

18 "Employer" means a unit of local government, a school
19 district, or a public or private hospital or ambulance service
20 that employs first responders. "Employer" includes a board
21 that is responsible for hiring and promoting first responders
22 and public safety telecommunicators.

23 "First responder" means a law enforcement officer or
24 fireman as defined in Section 2 of the Line of Duty
25 Compensation Act or an emergency medical technician (EMT) as

1 defined in Section 3.50 of the Emergency Medical Services
2 (EMS) Systems Act.

3 "Patient" means:

4 (1) a person who is admitted as an inpatient or
5 resident of a public or private mental health facility for
6 mental health treatment under Chapter III of the Mental
7 Health and Developmental Disabilities Code as an informal
8 admission, a voluntary admission, a minor admission, an
9 emergency admission, or an involuntary admission, unless
10 the treatment was solely for an alcohol abuse disorder; or

11 (2) a person who voluntarily or involuntarily receives
12 mental health treatment as an outpatient or is otherwise
13 provided services by a public or private mental health
14 facility, and who poses a clear and present danger to
15 oneself or to others.

16 "Record" means any record kept by a therapist or by an
17 agency in the course of providing behavioral health services
18 to a first responder concerning the first responder and the
19 services provided. "Record" includes the personal notes of the
20 therapist or agency. "Record" includes all records maintained
21 by a court that have been created in connection with, in
22 preparation for, or as a result of the filing of any petition
23 or certificate under Chapter II, Chapter III, or Chapter IV of
24 the Mental Health and Developmental Disabilities Code and
25 includes the petitions, certificates, dispositional reports,
26 treatment plans, and reports of diagnostic evaluations and of

1 hearings under Article VIII of Chapter III or under Article V
2 of Chapter IV of that Code. "Record" does not include
3 information that has been deidentified in accordance with
4 HIPAA, as specified in 45 CFR 164.514. "Record" does not
5 include a reference to the receipt of behavioral health
6 services noted during a patient history and physical or other
7 summary of care.

8 "Substance use" means the ingestion of one or more of the
9 following: alcohol; caffeine; cannabis; hallucinogens;
10 inhalants; opioids; sedatives, hypnotics, and anxiolytics;
11 stimulants; tobacco; and other unknown intoxicating substances
12 that the employee reasonably believes is interfering, or could
13 interfere, either directly or indirectly, with the performance
14 the employee's job duties.

15 Section 15. Rights to behavioral healthcare.

16 (a) First responders and public safety telecommunicators
17 have the following rights:

18 (1) The right of full access to behavioral health
19 services and treatment that are responsive to the needs of
20 the individual and the professions of police, emergency
21 medical technician (EMT), firefighter, and public safety
22 telecommunicator.

23 (2) The right to seek, or access if required or
24 requested, services and treatment for behavioral health
25 needs without fear of repercussions by the employer or

1 supervisor and without fear of reprisal.

2 (3) The right, in the course of seeking services and
3 treatment for behavioral health, that all records, notes,
4 and conclusions by the treatment provider shall not be
5 shared with an employer unless otherwise mandated by law.

6 (4) The right of an employee not to be compelled by the
7 employer under the threat of discipline to release any
8 records related to behavioral health.

9 (5) The right to have behavioral health records not be
10 used in any disciplinary or other proceeding against the
11 employee. If the employee waives the rights under this
12 paragraph, the employee retains the right to set the scope
13 of records that can be used in any disciplinary or other
14 proceeding against the employee, including, but not
15 limited to, treatment dates, facilities, actual or
16 suspected diagnoses, and program completion status.

17 The employee's records from a fitness for duty exam
18 related to the employee's behavioral health shall only be
19 used in a determination or proceeding against the employee
20 if the fitness for duty exam was ordered in connection
21 with that determination or proceeding.

22 (6) The right of an employee to seek treatment in any
23 geographic area without restrictions or limitations
24 imposed by the employer.

25 (7) The right to have behavioral health services and
26 treatment in a manner that reduces barriers to those

1 services and treatment.

2 (8) The right to have the employer destroy and
3 disregard any behavioral health records that the employer
4 obtained pursuant to the employee's unsuccessful pursuit
5 of benefits under workers' compensation, pensions, and
6 other programs.

7 If a first responder waives any rights under this
8 subsection, the right shall only be deemed waived to the
9 extent specified by the first responder.

10 (b) The rights guaranteed to first responders in
11 subsection (a) are judicially enforceable. An aggrieved
12 employee may, under the Civil Practice Law, bring an action
13 for damages, attorney's fees, or injunctive relief against an
14 employer for violating subsection (a).

15 (c) An employee who seeks behavioral health services or
16 treatment because of the use of an illicit substance is not
17 subject to discipline by his or her employer for the use of the
18 illicit substance unless a criminal act was carried out as a
19 consequence of using that illicit substance.

20 (d) An employer is responsible for the costs of any
21 behavioral health services and treatment obtained by an
22 employee under this Act."