



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3657

Introduced 1/21/2022, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

740 ILCS 110/9  
740 ILCS 110/13

from Ch. 91 1/2, par. 809  
from Ch. 91 1/2, par. 813

Amends the Mental Health and Developmental Disabilities Confidentiality Act. Removes language permitting disclosure of a record or communication without consent to an advocate consulted by a therapist or agency which provides services concerning the therapist's or agency's legal rights or duties in relation to the recipient and the services being provided. Provides that a notation of the information disclosed and the purpose of such disclosure or use is not required to be noted in the recipient's record in the case of a disclosure to an attorney consulted by a therapist or agency which provides services concerning the therapist's or agency's legal rights or duties in relation to the recipient and the services being provided.

LRB102 23679 LNS 32862 b

1 AN ACT concerning civil law.

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

4 Section 5. The Mental Health and Developmental  
5 Disabilities Confidentiality Act is amended by changing  
6 Sections 9 and 13 as follows:

7 (740 ILCS 110/9) (from Ch. 91 1/2, par. 809)

8 Sec. 9. In the course of providing services and after the  
9 conclusion of the provision of services, including for the  
10 purposes of treatment and care coordination, a therapist,  
11 integrated health system, or member of an interdisciplinary  
12 team may use, disclose, or re-disclose a record or  
13 communications without consent to:

14 (1) the therapist's supervisor, a consulting  
15 therapist, members of a staff team participating in the  
16 provision of services, a record custodian, a business  
17 associate, an integrated health system, a member of an  
18 interdisciplinary team, or a person acting under the  
19 supervision and control of the therapist;

20 (2) persons conducting a peer review of the services  
21 being provided;

22 (3) the Institute for Juvenile Research and the  
23 Institute for the Study of Developmental Disabilities;

1 (4) an attorney ~~or advocate~~ consulted by a therapist  
2 or agency which provides services concerning the  
3 therapist's or agency's legal rights or duties in relation  
4 to the recipient and the services being provided; and

5 (5) the Inspector General of the Department of  
6 Children and Family Services when such records or  
7 communications are relevant to a pending investigation  
8 authorized by Section 35.5 of the Children and Family  
9 Services Act where:

10 (A) the recipient was either (i) a parent, foster  
11 parent, or caretaker who is an alleged perpetrator of  
12 abuse or neglect or the subject of a dependency  
13 investigation or (ii) a victim of alleged abuse or  
14 neglect who was not a youth in care as defined in  
15 Section 4d of the Children and Family Services Act,  
16 and

17 (B) available information demonstrates that the  
18 mental health of the recipient was or should have been  
19 an issue to the safety of the child.

20 In the course of providing services, a therapist,  
21 integrated health system, or member of an interdisciplinary  
22 team may disclose a record or communications without consent  
23 to any department, agency, institution or facility which has  
24 custody of the recipient pursuant to State statute or any  
25 court order of commitment.

26 Information may be disclosed under this Section only to

1 the extent that knowledge of the record or communications is  
2 essential to the purpose for which disclosure is made and only  
3 after the recipient is informed that such disclosure may be  
4 made. A person to whom disclosure is made under this Section  
5 shall not redisclose any information except as provided in  
6 this Act.

7 (Source: P.A. 100-159, eff. 8-18-17.)

8 (740 ILCS 110/13) (from Ch. 91 1/2, par. 813)

9 Sec. 13. Whenever disclosure of a record or communication  
10 is made without consent pursuant to this Act, other than uses,  
11 disclosures, or redisclosures permitted under paragraph (4) of  
12 Section 9 and Sections 9.5, 9.8, 9.9, 9.10, and 9.11 of this  
13 Act, or other than uses, disclosures, or redisclosures  
14 permitted under Sections 9, 9.2, and 9.4 of this Act effected  
15 by electronic transmission, or whenever a record is used  
16 pursuant to Sections 7 and 8 of this Act, a notation of the  
17 information disclosed and the purpose of such disclosure or  
18 use shall be noted in the recipient's record together with the  
19 date and the name of the person to whom disclosure was made or  
20 by whom the record was used.

21 (Source: P.A. 98-378, eff. 8-16-13.)