



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB4234

Introduced 1/16/2024, by Rep. David Friess

#### SYNOPSIS AS INTRODUCED:

405 ILCS 5/2-107.4	
405 ILCS 5/Ch. III Art. I heading	
405 ILCS 5/3-101	from Ch. 91 1/2, par. 3-101
405 ILCS 5/3-806.1	
405 ILCS 5/3-814	from Ch. 91 1/2, par. 3-814
405 ILCS 5/3-902	from Ch. 91 1/2, par. 3-902
405 ILCS 5/4-701	from Ch. 91 1/2, par. 4-701
405 ILCS 5/5-113	from Ch. 91 1/2, par. 5-113

Amends the Mental Health and Developmental Disabilities Code. Provides that the Attorney General (rather than the State's Attorneys of the several counties) shall represent the people of the State of Illinois in court proceedings under the Act, shall attend such proceedings either in person or by assistant, and shall ensure that petitions, reports and orders are properly prepared. Changes references from "State's Attorney" to "Attorney General". Makes corresponding changes.

LRB103 34782 SPS 64632 b

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 the heading of  
6 Article III Art. I and Sections 2-107.4, 3-101, 3-806.1,  
7 3-814, 3-902, 4-701, and 5-113 as follows:

8 (405 ILCS 5/2-107.4)

9 Sec. 2-107.4. Video conferencing.

10 (a) The Illinois Supreme Court or any circuit court of  
11 this State may adopt rules permitting the use of video  
12 conferencing equipment in any hearing under Section 2-107.1  
13 subject to the following conditions:

14 (1) if the parties, including the respondent, and  
15 their attorneys, including the Attorney General State's  
16 ~~Attorney~~, are at a mental health facility, or some other  
17 location to which the respondent may be safely and  
18 conveniently transported, and the judge and any court  
19 personnel are in another location; or

20 (2) if the respondent and his or her attorney are at a  
21 mental health facility or some other location to which the  
22 respondent may be safely and conveniently transported, and  
23 all of the other participants including the judge are in

1 another location, if, and only if, agreed to by the  
2 respondent and the respondent's attorney.

3 (b) In any hearing under Section 2-107.1, any court may  
4 permit any witness, including a psychiatrist, to testify by  
5 video conferencing equipment from any location in the absence  
6 of a court rule specifically prohibiting that testimony.

7 (Source: P.A. 99-535, eff. 1-1-17.)

8 (405 ILCS 5/Ch. III Art. I heading)

9 ARTICLE I. JURISDICTION; DUTIES OF THE ATTORNEY GENERAL

10 ~~STATE'S ATTORNEY~~

11 (405 ILCS 5/3-101) (from Ch. 91 1/2, par. 3-101)

12 Sec. 3-101. (a) The Attorney General ~~State's Attorneys of~~  
13 ~~the several counties~~ shall represent the people of the State  
14 of Illinois in court proceedings under this Chapter and in  
15 proceedings under Section 2-107.1 ~~in their respective~~  
16 ~~counties~~, shall attend such proceedings either in person or by  
17 assistant, and shall ensure that petitions, reports and orders  
18 are properly prepared. Nothing herein contained shall prevent  
19 any party, including any petitioner, from being represented by  
20 his own counsel.

21 (b) Any community mental health provider or inpatient  
22 mental health facility, including hospitals operated by the  
23 Department, may be represented by counsel in court proceedings  
24 under this Chapter if they are providing services or funding

1 for services to the respondent, or if an order by the court  
2 directing said entity to provide services or funding for  
3 services to the respondent is being sought by any party.

4 (Source: P.A. 97-375, eff. 8-15-11.)

5 (405 ILCS 5/3-806.1)

6 Sec. 3-806.1. Video conferencing.

7 (a) Notwithstanding the provisions in Section 3-806, the  
8 Illinois Supreme Court or any circuit court of this State may  
9 adopt rules permitting the use of video conferencing equipment  
10 in all hearings under this Chapter subject to the following  
11 provisions:

12 (1) Such hearings are permitted if the parties,  
13 including the respondent, and their lawyers, including the  
14 Attorney General ~~State's Attorney~~, are at a mental health  
15 facility, or some other location to which the respondent  
16 may be safely and conveniently transported, and the judge  
17 and any court personnel are in another location.

18 (2) Such hearings are permitted if the respondent and  
19 his or her counsel are at a mental health facility or some  
20 other location to which the respondent may be safely and  
21 conveniently transported, and all of the other  
22 participants including the judge are in another location,  
23 if, and only if, agreed to by the respondent and the  
24 respondent's counsel.

25 (3) Video conferencing under this subsection (a) shall

1 not be permitted in a jury trial under Section 3-802 of  
2 this Article.

3 (b) Notwithstanding the above provisions, any court may  
4 permit any witness, including a psychiatrist, to testify by  
5 video conferencing equipment from any location in the absence  
6 of a court rule specifically prohibiting such testimony.

7 (Source: P.A. 96-1321, eff. 1-1-11.)

8 (405 ILCS 5/3-814) (from Ch. 91 1/2, par. 3-814)

9 Sec. 3-814. Treatment plan.

10 (a) Not more than 30 days after admission under this  
11 Article, the facility director shall file with the court a  
12 current treatment plan which shall include: all the  
13 requirements listed in Section 3-209, an evaluation of the  
14 recipient's progress and the extent to which he is benefiting  
15 from treatment, the criteria which form the basis for the  
16 determination that the patient is subject to involuntary  
17 admission as defined in Section 1-119, and the specific  
18 behaviors or conditions that demonstrate that the recipient  
19 meets these criteria for continued confinement. If the  
20 facility director is unable to determine any of the required  
21 information, the treatment plan shall include an explanation  
22 of why the facility director is unable to make this  
23 determination, what the facility director is doing to enable  
24 himself or herself to determine the information, and the date  
25 by which the facility director expects to be able to make this

1 determination. The facility director shall forward a copy of  
2 the plan to the Attorney General ~~State's Attorney~~, the  
3 recipient's attorney, if the recipient is represented by  
4 counsel, the recipient, and any guardian of the recipient.

5 (b) The purpose of the filing, forwarding, and review of  
6 treatment plans and treatment is to ensure that the recipient  
7 is receiving adequate and humane care and services as defined  
8 in Section 1-101.2 and to ensure that the recipient continues  
9 to meet the standards for involuntary confinement.

10 (c) On request of the recipient or an interested person on  
11 his behalf, or on the court's own initiative, the court shall  
12 review the current treatment plan to determine whether its  
13 contents comply with the requirements of this Section and  
14 Section 3-209. A request to review the current treatment plan  
15 may be made by the recipient, or by an interested person on his  
16 behalf, 30 days after initial commitment under Section 3-813,  
17 90 days after the initial commitment, and 90 days after each  
18 additional period of commitment under subsection (b) of  
19 Section 3-813. If the court determines that any of the  
20 information required by this Section or Section 3-209 to be  
21 included in the treatment plan is not in the treatment plan or  
22 that the treatment plan does not contain information from  
23 which the court can determine whether the recipient continues  
24 to meet the criteria for continued confinement, the court  
25 shall indicate what is lacking and order the facility director  
26 to revise the current treatment plan to comply with this

1 Section and Section 3-209. If the recipient has been ordered  
2 committed to the facility after he has been found not guilty by  
3 reason of insanity, the treatment plan and its review shall be  
4 subject to the provisions of Section 5-2-4 of the Unified Code  
5 of Corrections.

6 (d) The recipient or an interested person on his or her  
7 behalf may request a hearing or the court on its own motion may  
8 order a hearing to review the treatment being received by the  
9 recipient. The court, the recipient, or the Attorney General  
10 ~~State's Attorney~~ may call witnesses at the hearing. The court  
11 may order any public agency, officer, or employee to render  
12 such information, cooperation, and assistance as is within its  
13 legal authority and as may be appropriate to achieve the  
14 objectives of this Section. The court may order an independent  
15 examination on its own initiative and shall order such an  
16 evaluation if either the recipient or the Attorney General  
17 ~~State's Attorney~~ so requests and has demonstrated to the court  
18 that the plan cannot be effectively reviewed by the court  
19 without such an examination. Under no circumstances shall the  
20 court be required to order an independent examination pursuant  
21 to this Section more than once each year. The examination  
22 shall be conducted by persons authorized to conduct  
23 independent examinations under Section 3-804. If the court is  
24 satisfied that the recipient is benefiting from treatment, it  
25 may continue the original order for the remainder of the  
26 admission period. If the court is not so satisfied, it may

1 modify its original order or it may order the recipient  
2 discharged.

3 (e) In lieu of a treatment plan, the facility director may  
4 file a typed summary of the treatment plan which contains the  
5 information required under Section 3-209 and subsection (a) of  
6 this Section.

7 (Source: P.A. 91-536, eff. 1-1-00.)

8 (405 ILCS 5/3-902) (from Ch. 91 1/2, par. 3-902)

9 Sec. 3-902. Director initiated discharge.

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

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

23 (c) When a facility director discharges or changes the  
24 status of a recipient pursuant to this Section he shall  
25 promptly notify the clerk of the court which entered the



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

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

1 individual 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; 96-1399, eff. 7-29-10;  
8 96-1453, eff. 8-20-10.)

9 (405 ILCS 5/4-701) (from Ch. 91 1/2, par. 4-701)

10 Sec. 4-701. (a) Any client admitted to a developmental  
11 disabilities facility under this Chapter may be discharged  
12 whenever the facility director determines that he is suitable  
13 for discharge.

14 (b) Any client admitted to a facility or program of  
15 nonresidential services upon court order under Article V of  
16 this Chapter or admitted upon court order as a person with an  
17 intellectual disability or as mentally deficient under any  
18 prior statute shall be discharged whenever the facility  
19 director determines that he no longer meets the standard for  
20 judicial admission. When the facility director believes that  
21 continued residence is advisable for such a client, he shall  
22 inform the client and his guardian, if any, that the client may  
23 remain at the facility on administrative admission status.  
24 When a facility director discharges or changes the status of  
25 such client, he shall promptly notify the clerk of the court

1 who shall note the action in the court record.

2 (c) When the facility director discharges a client  
3 pursuant to subsection (b) of this Section, he shall promptly  
4 notify the Attorney General ~~State's Attorney of the county in~~  
5 ~~which the client resided immediately prior to his admission to~~  
6 ~~a developmental disabilities facility~~. Upon receipt of such  
7 notice, the Attorney General ~~State's Attorney~~ may notify such  
8 peace officers that he deems appropriate.

9 (d) The facility director may grant a temporary release to  
10 any client when such release is appropriate and consistent  
11 with the habilitation needs of the client.

12 (Source: P.A. 98-463, eff. 8-16-13; 99-143, eff. 7-27-15.)

13 (405 ILCS 5/5-113) (from Ch. 91 1/2, par. 5-113)

14 Sec. 5-113. Upon receiving a petition for review under  
15 Section 5-111, the Department shall thereupon notify the Board  
16 of Reimbursement Appeals which shall render its decision  
17 thereon within 30 days after the petition is filed and certify  
18 such decision to the Department. Concurrence of a majority of  
19 the Board is necessary in any such decision. Upon request of  
20 the Department, the Attorney General ~~State's Attorney of the~~  
21 ~~county in which a responsible relative or a recipient who is~~  
22 ~~liable under this Act for payment of sums representing~~  
23 ~~services charges resides~~, shall institute appropriate legal  
24 action against any such responsible relative, or the  
25 recipient, or within the time provided by law shall file a

1 claim against the estate of such recipient who fails or  
2 refuses to pay those charges. The court shall order the  
3 payment of sums due for services charges for such period or  
4 periods of time as the circumstances require, except that no  
5 responsible relative may be held liable for charges for  
6 services furnished to a recipient if such charges were  
7 assessed more than 5 years prior to the time the action is  
8 filed; but such 5 year limitation does not apply to the  
9 liability of a recipient or recipient's estate. Such order may  
10 be entered against any or all such defendants and may be based  
11 upon the proportionate ability of each defendant to contribute  
12 to the payment of sums representing services charges including  
13 the actual charges for services in facilities outside the  
14 Department where the Department has paid such charges. Orders  
15 for the payment of money may be enforced by attachment as for  
16 contempt against the persons of the defendants and, in  
17 addition, as other judgments for the payment of money, and  
18 costs may be adjudged against the defendants and apportioned  
19 among them.

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