

SB0188



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0188

Introduced 1/31/2023, by Sen. Steve McClure

SYNOPSIS AS INTRODUCED:

410 ILCS 210/2
740 ILCS 110/4

from Ch. 111, par. 4502
from Ch. 91 1/2, par. 804

Amends the Consent by Minors to Health Care Services Act. Allows a parent who consents to the performance upon his or her child of a health care service to request to inspect and copy the child's records or any part thereof so long as it is related to the health care service the parent consented to. Amends the Mental Health and Developmental Disabilities Confidentiality Act. Allows the personal representative under HIPAA of a recipient to request to inspect and copy a recipient's record or any part thereof, regardless of the age of the recipient.

LRB103 02849 LNS 47855 b

A BILL FOR

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 Consent by Minors to Health Care Services
5 Act is amended by changing Section 2 as follows:

6 (410 ILCS 210/2) (from Ch. 111, par. 4502)

7 Sec. 2. Any parent, including a parent who is a minor, may
8 consent to the performance upon his or her child of a health
9 care service by a physician licensed to practice medicine in
10 all its branches, a chiropractic physician, a licensed
11 optometrist, a licensed advanced practice registered nurse, or
12 a licensed physician assistant or a dental procedure by a
13 licensed dentist. The consent of a parent who is a minor shall
14 not be voidable because of such minority, but, for such
15 purpose, a parent who is a minor shall be deemed to have the
16 same legal capacity to act and shall have the same powers and
17 obligations as has a person of legal age.

18 A parent who consents to the performance upon his or her
19 child of a health care service under this Section shall be
20 entitled, upon request, to inspect and copy the child's
21 records or any part thereof so long as it is related to the
22 health care service the parent consented to.

23 (Source: P.A. 99-173, eff. 7-29-15; 100-378, eff. 1-1-18;

1 100-513, eff. 1-1-18; 100-863, eff. 8-14-18.)

2 Section 10. The Mental Health and Developmental
3 Disabilities Confidentiality Act is amended by changing
4 Section 4 as follows:

5 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

6 Sec. 4. (a) The following persons shall be entitled, upon
7 request, to inspect and copy a recipient's record or any part
8 thereof:

9 (1) the parent or guardian of a recipient who is under
10 12 years of age;

11 (2) the recipient if he is 12 years of age or older;

12 (3) the parent or guardian of a recipient who is at
13 least 12 but under 18 years, if the recipient is informed
14 and does not object or if the therapist does not find that
15 there are compelling reasons for denying the access. The
16 parent or guardian who is denied access by either the
17 recipient or the therapist may petition a court for access
18 to the record. Nothing in this paragraph is intended to
19 prohibit the parent or guardian of a recipient who is at
20 least 12 but under 18 years from requesting and receiving
21 the following information: current physical and mental
22 condition, diagnosis, treatment needs, services provided,
23 and services needed, including medication, if any;

24 (3.5) the personal representative under HIPAA, 45 CFR

1 164.502(g), of a recipient, regardless of the age of the
2 recipient;

3 (4) the guardian of a recipient who is 18 years or
4 older;

5 (5) an attorney or guardian ad litem who represents a
6 minor 12 years of age or older in any judicial or
7 administrative proceeding, provided that the court or
8 administrative hearing officer has entered an order
9 granting the attorney this right;

10 (6) an agent appointed under a recipient's power of
11 attorney for health care or for property, when the power
12 of attorney authorizes the access;

13 (7) an attorney-in-fact appointed under the Mental
14 Health Treatment Preference Declaration Act; or

15 (8) any person in whose care and custody the recipient
16 has been placed pursuant to Section 3-811 of the Mental
17 Health and Developmental Disabilities Code.

18 (b) Assistance in interpreting the record may be provided
19 without charge and shall be provided if the person inspecting
20 the record is under 18 years of age. However, access may in no
21 way be denied or limited if the person inspecting the record
22 refuses the assistance. A reasonable fee may be charged for
23 duplication of a record. However, when requested to do so in
24 writing by any indigent recipient, the custodian of the
25 records shall provide at no charge to the recipient, or to the
26 Guardianship and Advocacy Commission, the agency designated by

1 the Governor under Section 1 of the Protection and Advocacy
2 for Persons with Developmental Disabilities Act or to any
3 other not-for-profit agency whose primary purpose is to
4 provide free legal services or advocacy for the indigent and
5 who has received written authorization from the recipient
6 under Section 5 of this Act to receive his records, one copy of
7 any records in its possession whose disclosure is authorized
8 under this Act.

9 (c) Any person entitled to access to a record under this
10 Section may submit a written statement concerning any disputed
11 or new information, which statement shall be entered into the
12 record. Whenever any disputed part of a record is disclosed,
13 any submitted statement relating thereto shall accompany the
14 disclosed part. Additionally, any person entitled to access
15 may request modification of any part of the record which he
16 believes is incorrect or misleading. If the request is
17 refused, the person may seek a court order to compel
18 modification.

19 (d) Whenever access or modification is requested, the
20 request and any action taken thereon shall be noted in the
21 recipient's record.

22 (Source: P.A. 99-143, eff. 7-27-15.)