



Sen. Doris Turner

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10300SB2657sam001

LRB103 35575 JRC 70387 a

1 AMENDMENT TO SENATE BILL 2657

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2657 by replacing  
3 everything after the enacting clause with the following:

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

7 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

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

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

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

14 (3) the parent or guardian of a recipient who is at  
15 least 12 but under 18 years, if the recipient is informed  
16 and does not object or if the therapist does not find that

1           there are compelling reasons for denying the access. The  
2           parent or guardian who is denied access by either the  
3           recipient or the therapist may petition a court for access  
4           to the record. Nothing in this paragraph is intended to  
5           prohibit the parent or guardian of a recipient who is at  
6           least 12 but under 18 years from requesting and receiving  
7           the following information: current physical and mental  
8           condition, diagnosis, treatment needs, services provided,  
9           and services needed, including medication, if any;

10           (3.5) the personal representative under HIPAA, 45 CFR  
11           164.502(g), of a recipient, regardless of the age of the  
12           recipient;

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

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

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

23           (7) an attorney-in-fact appointed under the Mental  
24           Health Treatment Preference Declaration Act; ~~or~~

25           (7.5) an investigator or attorney employed by the  
26           Department of Financial and Professional Regulation

1 investigating any provider of mental health or  
2 developmental disabilities services who is a licensee of  
3 the Department shall be entitled to inspect and copy a  
4 recipient's record or any part thereof upon the  
5 presentation of a Department subpoena. A subpoena for  
6 records issued to a federally assisted substance use  
7 disorder program as defined in 42 CFR 2.12(b) must be  
8 accompanied by a court order if required by 42 CFR 2.66.  
9 The Department shall notify recipients upon receiving  
10 records obtained via subpoena. Nothing in this Act  
11 prohibits the use of a recipient's records in an  
12 administrative proceeding conducted by the Department; or

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

16 (b) Assistance in interpreting the record may be provided  
17 without charge and shall be provided if the person inspecting  
18 the record is under 18 years of age. However, access may in no  
19 way be denied or limited if the person inspecting the record  
20 refuses the assistance. A reasonable fee may be charged for  
21 duplication of a record. However, when requested to do so in  
22 writing by any indigent recipient, the custodian of the  
23 records shall provide at no charge to the recipient, or to the  
24 Guardianship and Advocacy Commission, the agency designated by  
25 the Governor under Section 1 of the Protection and Advocacy  
26 for Persons with Developmental Disabilities Act or to any

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

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

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

20 (Source: P.A. 103-474, eff. 1-1-24.)".