

HB4867



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4867

by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

740 ILCS 110/11

from Ch. 91 1/2, par. 811

Amends the Mental Health and Developmental Disabilities Confidentiality Act. Provides that records and communications may be disclosed when a therapist determines that certain disclosures are necessary to initiate or continue civil commitment or involuntary treatment proceedings (instead of only civil commitment proceedings). Effective immediately.

LRB095 18157 AJO 44240 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 Mental Health and Developmental
5 Disabilities Confidentiality Act is amended by changing
6 Section 11 as follows:

7 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

8 Sec. 11. Disclosure of records and communications. Records
9 and communications may be disclosed:

10 (i) in accordance with the provisions of the Abused and
11 Neglected Child Reporting Act, subsection (u) of Section 5
12 of the Children and Family Services Act, or Section 7.4 of
13 the Child Care Act of 1969;

14 (ii) when, and to the extent, a therapist, in his or
15 her sole discretion, determines that disclosure is
16 necessary to initiate or continue civil commitment or
17 involuntary treatment proceedings under the laws of this
18 State or to otherwise protect the recipient or other person
19 against a clear, imminent risk of serious physical or
20 mental injury or disease or death being inflicted upon the
21 recipient or by the recipient on himself or another;

22 (iii) when, and to the extent disclosure is, in the
23 sole discretion of the therapist, necessary to the

1 provision of emergency medical care to a recipient who is
2 unable to assert or waive his or her rights hereunder;

3 (iv) when disclosure is necessary to collect sums or
4 receive third party payment representing charges for
5 mental health or developmental disabilities services
6 provided by a therapist or agency to a recipient under
7 Chapter V of the Mental Health and Developmental
8 Disabilities Code or to transfer debts under the
9 Uncollected State Claims Act; however, disclosure shall be
10 limited to information needed to pursue collection, and the
11 information so disclosed shall not be used for any other
12 purposes nor shall it be redisclosed except in connection
13 with collection activities;

14 (v) when requested by a family member, the Department
15 of Human Services may assist in the location of the
16 interment site of a deceased recipient who is interred in a
17 cemetery established under Section 100-26 of the Mental
18 Health and Developmental Disabilities Administrative Act;

19 (vi) in judicial proceedings under Article VIII of
20 Chapter III and Article V of Chapter IV of the Mental
21 Health and Developmental Disabilities Code and proceedings
22 and investigations preliminary thereto, to the State's
23 Attorney for the county or residence of a person who is the
24 subject of such proceedings, or in which the person is
25 found, or in which the facility is located, to the attorney
26 representing the recipient in the judicial proceedings, to

1 any person or agency providing mental health services that
2 are the subject of the proceedings and to that person's or
3 agency's attorney, to any court personnel, including but
4 not limited to judges and circuit court clerks, and to a
5 guardian ad litem if one has been appointed by the court,
6 provided that the information so disclosed shall not be
7 utilized for any other purpose nor be redisclosed except in
8 connection with the proceedings or investigations;

9 (vii) when, and to the extent disclosure is necessary
10 to comply with the requirements of the Census Bureau in
11 taking the federal Decennial Census;

12 (viii) when, and to the extent, in the therapist's sole
13 discretion, disclosure is necessary to warn or protect a
14 specific individual against whom a recipient has made a
15 specific threat of violence where there exists a
16 therapist-recipient relationship or a special
17 recipient-individual relationship;

18 (ix) in accordance with the Sex Offender Registration
19 Act;

20 (x) in accordance with the Rights of Crime Victims and
21 Witnesses Act;

22 (xi) in accordance with Section 6 of the Abused and
23 Neglected Long Term Care Facility Residents Reporting Act;
24 and

25 (xii) in accordance with Section 55 of the Abuse of
26 Adults with Disabilities Intervention Act.

1 Any person, institution, or agency, under this Act,
2 participating in good faith in the making of a report under the
3 Abused and Neglected Child Reporting Act or in the disclosure
4 of records and communications under this Section, shall have
5 immunity from any liability, civil, criminal or otherwise, that
6 might result by reason of such action. For the purpose of any
7 proceeding, civil or criminal, arising out of a report or
8 disclosure under this Section, the good faith of any person,
9 institution, or agency so reporting or disclosing shall be
10 presumed.

11 (Source: P.A. 94-852, eff. 6-13-06; 94-1010, eff. 10-1-06;
12 95-331, eff. 8-21-07.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.