



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2246

Introduced 1/27/2016, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

405 ILCS 5/3-800
405 ILCS 5/3-802

from Ch. 91 1/2, par. 3-800
from Ch. 91 1/2, par. 3-802

Amends the Mental Health and Developmental Disabilities Code. Provides that the assertion of the respondent's right to a jury on the question of whether he or she is subject to involuntary admission on an inpatient or outpatient basis shall not be deemed a request for a continuance beyond 15 days from the date of the assertion of that right. Provides that no respondent shall be required to waive his or her right to a timely hearing on the question of whether he or she is subject to involuntary admission on an inpatient or outpatient basis as a condition of obtaining a trial by jury.

LRB099 13224 RLC 41085 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Sections 3-800 and
6 3-802 as follows:

7 (405 ILCS 5/3-800) (from Ch. 91 1/2, par. 3-800)

8 Sec. 3-800. (a) Unless otherwise indicated, court hearings
9 under this Chapter shall be held pursuant to this Article.
10 Hearings shall be held in such quarters as the court directs.
11 To the extent practical, hearings shall be held in the mental
12 health facility where the respondent is hospitalized. The
13 respondent may request to have the proceedings transferred to
14 the county of his or her residence. The court shall grant the
15 request if and only if the court determines that the transfer
16 is necessary to ensure the attendance of any material witness.

17 (b) If the court grants a continuance on its own motion or
18 upon the motion of one of the parties, the respondent may
19 continue to be detained pending further order of the court. The
20 ~~Such~~ continuance shall not extend beyond 15 days except to the
21 extent that continuances are requested by the respondent. The
22 assertion of the respondent's right to a jury under Section
23 3-802 of this Code shall not be deemed a request for a

1 continuance beyond 15 days from the date of the assertion of
2 that right.

3 (c) Court hearings under this Chapter, including hearings
4 under Section 2-107.1, shall be open to the press and public
5 unless the respondent or some other party requests that they be
6 closed. The court may also indicate its intention to close a
7 hearing, including when it determines that the respondent may
8 be unable to make a reasoned decision to request that the
9 hearing be closed. A request that a hearing be closed shall be
10 granted unless there is an objection to closing the hearing by
11 a party or any other person. If an objection is made, the court
12 shall not close the hearing unless, following a hearing, it
13 determines that the patient's interest in having the hearing
14 closed is compelling. The court shall support its determination
15 with written findings of fact and conclusions of law. The court
16 shall not close the hearing if the respondent objects to its
17 closure. Whenever a court determines that a hearing shall be
18 closed, access to the records of the hearing, including but not
19 limited to transcripts and pleadings, shall be limited to the
20 parties involved in the hearing, court personnel, and any
21 person or agency providing mental health services that are the
22 subject of the hearing. Access may also be granted, however,
23 pursuant to the provisions of the Mental Health and
24 Developmental Disabilities Confidentiality Act.

25 (d) The provisions of subsection (a-5) of Section 6 of the
26 Rights of Crime Victims and Witnesses Act shall apply to the

1 initial commitment hearing, as provided under Section 5-2-4 of
2 the Unified Code of Corrections, for a respondent found not
3 guilty by reason of insanity of a violent crime in a criminal
4 proceeding and the hearing has been ordered by the court under
5 this Code to determine if the defendant is:

6 (1) in need of mental health services on an inpatient
7 basis;

8 (2) in need of mental health services on an outpatient
9 basis; or

10 (3) not in need of mental health services.

11 While the impact statement to the court allowed under this
12 subsection (d) may include the impact that the respondent's
13 criminal conduct has had upon the victim, victim's
14 representative, or victim's family or household member, the
15 court may only consider the impact statement along with all
16 other appropriate factors in determining the:

17 (i) threat of serious physical harm posed by the
18 respondent to himself or herself, or to another person;

19 (ii) location of inpatient or outpatient mental health
20 services ordered by the court, but only after complying
21 with all other applicable administrative requirements,
22 rules, and statutory requirements;

23 (iii) maximum period of commitment for inpatient
24 mental health services; and

25 (iv) conditions of release for outpatient mental
26 health services ordered by the court.

1 (e) Notwithstanding the provisions of Section 2-1009 of the
2 Code of Civil Procedure, a respondent may object to a motion
3 for voluntary dismissal and the court may refuse to grant such
4 a dismissal for good cause shown.

5 (Source: P.A. 99-220, eff. 7-31-15.)

6 (405 ILCS 5/3-802) (from Ch. 91 1/2, par. 3-802)

7 Sec. 3-802. The respondent is entitled to a jury on the
8 question of whether he is subject to involuntary admission on
9 an inpatient or outpatient basis. The jury shall consist of 6
10 persons to be chosen in the same manner as are jurors in other
11 civil proceedings. A respondent is not entitled to a jury on
12 the question of whether psychotropic medication or
13 electroconvulsive therapy may be administered under Section
14 2-107.1. No respondent shall be required to waive his or her
15 right to a timely hearing under subsection (b) of Section 3-800
16 of this Code as a condition of obtaining a trial by jury.

17 (Source: P.A. 95-172, eff. 8-14-07; 96-1399, eff. 7-29-10;
18 96-1453, eff. 8-20-10.)