

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 Sections 2, 6, 7, 9, 9.2, 9.4, 11, and 13 and by adding
7 Sections 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, and 9.11 as follows:

8 (740 ILCS 110/2) (from Ch. 91 1/2, par. 802)

9 Sec. 2. The terms used in this Act, unless the context
10 requires otherwise, have the meanings ascribed to them in this
11 Section.

12 "Agent" means a person who has been legally appointed as an
13 individual's agent under a power of attorney for health care or
14 for property.

15 "Business associate" has the meaning ascribed to it under
16 HIPAA, as specified in 45 CFR 160.103.

17 "Confidential communication" or "communication" means any
18 communication made by a recipient or other person to a
19 therapist or to or in the presence of other persons during or
20 in connection with providing mental health or developmental
21 disability services to a recipient. Communication includes
22 information which indicates that a person is a recipient.

23 "Communication" does not include information that has been

1 de-identified in accordance with HIPAA, as specified in 45 CFR
2 164.514.

3 "Covered entity" has the meaning ascribed to it under
4 HIPAA, as specified in 45 CFR 160.103.

5 "Guardian" means a legally appointed guardian or
6 conservator of the person.

7 "Health information exchange" or "HIE" means a health
8 information exchange or health information organization that
9 oversees and governs the electronic exchange of health
10 information that (i) is established pursuant to the Illinois
11 Health Information Exchange and Technology Act, or any
12 subsequent amendments thereto, and any administrative rules
13 promulgated thereunder; or (ii) has established a data sharing
14 arrangement with the Illinois Health Information Exchange; or
15 (iii) as of the effective date of this amendatory Act of the
16 98th General Assembly, was designated by the Illinois Health
17 Information Exchange Authority Board as a member of, or was
18 represented on, the Authority Board's Regional Health
19 Information Exchange Workgroup; provided that such designation
20 shall not require the establishment of a data sharing
21 arrangement or other participation with the Illinois Health
22 Information Exchange or the payment of any fee.

23 "HIE purposes" means those uses and disclosures (as those
24 terms are defined under HIPAA, as specified in 45 CFR 160.103)
25 for activities of an HIE: (i) set forth in the Illinois Health
26 Information Exchange and Technology Act or any subsequent

1 amendments thereto and any administrative rules promulgated
2 thereunder; or (ii) which are permitted under federal law.

3 "HIPAA" means the Health Insurance Portability and
4 Accountability Act of 1996, Public Law 104-191, and any
5 subsequent amendments thereto and any regulations promulgated
6 thereunder, including the Security Rule, as specified in 45 CFR
7 164.302-18, and the Privacy Rule, as specified in 45 CFR
8 164.500-34.

9 "Integrated health system" means an organization with a
10 system of care which incorporates physical and behavioral
11 healthcare and includes care delivered in an inpatient and
12 outpatient setting.

13 "Interdisciplinary team" means a group of persons
14 representing different clinical disciplines, such as medicine,
15 nursing, social work, and psychology, providing and
16 coordinating the care and treatment for a recipient of mental
17 health or developmental disability services. The group may be
18 composed of individuals employed by one provider or multiple
19 providers.

20 "Mental health or developmental disabilities services" or
21 "services" includes but is not limited to examination,
22 diagnosis, evaluation, treatment, training, pharmaceuticals,
23 aftercare, habilitation or rehabilitation.

24 "Personal notes" means:

25 (i) information disclosed to the therapist in
26 confidence by other persons on condition that such

1 information would never be disclosed to the recipient or
2 other persons;

3 (ii) information disclosed to the therapist by the
4 recipient which would be injurious to the recipient's
5 relationships to other persons, and

6 (iii) the therapist's speculations, impressions,
7 hunches, and reminders.

8 "Parent" means a parent or, in the absence of a parent or
9 guardian, a person in loco parentis.

10 "Recipient" means a person who is receiving or has received
11 mental health or developmental disabilities services.

12 "Record" means any record kept by a therapist or by an
13 agency in the course of providing mental health or
14 developmental disabilities service to a recipient concerning
15 the recipient and the services provided. "Records" includes all
16 records maintained by a court that have been created in
17 connection with, in preparation for, or as a result of the
18 filing of any petition or certificate under Chapter II, Chapter
19 III, or Chapter IV of the Mental Health and Developmental
20 Disabilities Code and includes the petitions, certificates,
21 dispositional reports, treatment plans, and reports of
22 diagnostic evaluations and of hearings under Article VIII of
23 Chapter III or under Article V of Chapter IV of that Code.
24 Record does not include the therapist's personal notes, if such
25 notes are kept in the therapist's sole possession for his own
26 personal use and are not disclosed to any other person, except

1 the therapist's supervisor, consulting therapist or attorney.
2 If at any time such notes are disclosed, they shall be
3 considered part of the recipient's record for purposes of this
4 Act. "Record" does not include information that has been
5 de-identified in accordance with HIPAA, as specified in 45 CFR
6 164.514.

7 "Record custodian" means a person responsible for
8 maintaining a recipient's record.

9 "Therapist" means a psychiatrist, physician, psychologist,
10 social worker, or nurse providing mental health or
11 developmental disabilities services or any other person not
12 prohibited by law from providing such services or from holding
13 himself out as a therapist if the recipient reasonably believes
14 that such person is permitted to do so. Therapist includes any
15 successor of the therapist.

16 (Source: P.A. 89-58, eff. 1-1-96; 90-538, eff. 12-1-97.)

17 (740 ILCS 110/6) (from Ch. 91 1/2, par. 806)

18 Sec. 6. Such information from a recipient's record as is
19 necessary to enable him to apply for or receive benefits may be
20 disclosed with consent obtained pursuant to Section 5 of this
21 Act. Disclosure may be made without consent when despite every
22 reasonable effort it is not possible to obtain consent because
23 the person entitled to give consent is not capable of
24 consenting or is not available to do so. The recipient shall be
25 informed of any disclosure made without consent. The

1 information disclosed without consent under this Section may
2 include only the identity of the recipient and therapist and a
3 description of the nature, purpose, quantity, and date of the
4 services provided. Any request for additional information
5 shall state with particularity what further information is
6 needed and the reasons therefor. Refusal to consent to the
7 disclosure of more information than is necessary to apply for
8 or receive direct benefits shall not be grounds for in any way
9 denying, limiting, or cancelling such benefits or refusing to
10 accept an application or renew such benefits. Such information
11 shall not be redisclosed except as provided in this Act ~~with~~
12 ~~the consent of the person entitled to give consent.~~

13 (Source: P.A. 80-1508.)

14 (740 ILCS 110/7) (from Ch. 91 1/2, par. 807)

15 Sec. 7. Review of therapist or agency; use of recipient's
16 record.

17 (a) When a therapist or agency which provides services is
18 being reviewed for purposes of licensure, statistical
19 compilation, research, evaluation, or other similar purpose, a
20 recipient's record may be used by the person conducting the
21 review to the extent that this is necessary to accomplish the
22 purpose of the review, provided that personally identifiable
23 data is removed from the record before use. Personally
24 identifiable data may be disclosed only in accordance with ~~the~~
25 ~~consent obtained under~~ Section 5 of this Act. Licensure and the

1 like may not be withheld or withdrawn for failure to disclose
2 personally identifiable data if consent is not obtained.

3 (b) When an agency which provides services is being
4 reviewed for purposes of funding, accreditation, reimbursement
5 or audit by a State or federal agency or accrediting body, a
6 recipient's record may be used by the person conducting the
7 review and personally identifiable information may be
8 disclosed without consent, provided that the personally
9 identifiable information is necessary to accomplish the
10 purpose of the review.

11 For the purpose of this subsection, an inspection
12 investigation or site visit by the United States Department of
13 Justice regarding compliance with a pending consent decree is
14 considered an audit by a federal agency.

15 (c) An independent team of experts under Brian's Law shall
16 be entitled to inspect and copy the records of any recipient
17 whose death is being examined by such a team pursuant to the
18 mortality review process authorized by Brian's Law.
19 Information disclosed under this subsection may not be
20 redisclosed without the written consent of one of the persons
21 identified in Section 4 of this Act.

22 (Source: P.A. 96-1235, eff. 1-1-11.)

23 (740 ILCS 110/9) (from Ch. 91 1/2, par. 809)

24 (Text of Section WITHOUT the changes made by P.A. 89-7,
25 which has been held unconstitutional)

1 Sec. 9. In the course of providing services and after the
2 conclusion of the provision of services, including for the
3 purposes of treatment and care coordination, a therapist,
4 integrated health system, or member of an interdisciplinary
5 team may use, disclose, or re-disclose ~~may disclose~~ a record or
6 communications without consent to:

7 (1) the therapist's supervisor, a consulting
8 therapist, members of a staff team participating in the
9 provision of services, a record custodian, a business
10 associate, an integrated health system, a member of an
11 interdisciplinary team, or a person acting under the
12 supervision and control of the therapist;

13 (2) persons conducting a peer review of the services
14 being provided;

15 (3) the Institute for Juvenile Research and the
16 Institute for the Study of Developmental Disabilities;

17 (4) an attorney or advocate consulted by a therapist or
18 agency which provides services concerning the therapist's
19 or agency's legal rights or duties in relation to the
20 recipient and the services being provided; and

21 (5) the Inspector General of the Department of Children
22 and Family Services when such records or communications are
23 relevant to a pending investigation authorized by Section
24 35.5 of the Children and Family Services Act where:

25 (A) the recipient was either (i) a parent, foster
26 parent, or caretaker who is an alleged perpetrator of

1 abuse or neglect or the subject of a dependency
2 investigation or (ii) a non-ward victim of alleged
3 abuse or neglect, and

4 (B) available information demonstrates that the
5 mental health of the recipient was or should have been
6 an issue to the safety of the child.

7 In the course of providing services, a therapist,
8 integrated health system, or member of an interdisciplinary
9 team may disclose a record or communications without consent to
10 any department, agency, institution or facility which has
11 custody of the recipient pursuant to State statute or any court
12 order of commitment.

13 Information may be disclosed under this Section only to the
14 extent that knowledge of the record or communications is
15 essential to the purpose for which disclosure is made and only
16 after the recipient is informed that such disclosure may be
17 made. A person to whom disclosure is made under this Section
18 shall not redisclose any information except as provided in this
19 Act.

20 (Source: P.A. 86-955; 90-512, eff. 8-22-97.)

21 (740 ILCS 110/9.2)

22 Sec. 9.2. Interagency disclosure of recipient information.
23 For the purposes of continuity of care, the Department of Human
24 Services (as successor to the Department of Mental Health and
25 Developmental Disabilities), community agencies funded by the

1 Department of Human Services in that capacity, licensed private
2 hospitals, integrated health systems, members of an
3 interdisciplinary team, federally qualified health centers, or
4 physicians or therapists or other healthcare providers
5 licensed or certified by or receiving payments from the
6 Department of Human Services or the Department of Healthcare
7 and Family Services, State correctional facilities, juvenile
8 justice facilities, mental health facilities operated by a
9 county, mental health court professionals as defined in Section
10 10 of the Mental Health Court Treatment Act, Veterans and
11 Servicemembers Court professionals as defined in Section 10 of
12 the Veterans and Servicemembers Court Treatment Act and jails
13 and juvenile detention facilities operated by any county of
14 this State may disclose a recipient's record or communications,
15 without consent, to each other, but only for the purpose of
16 admission, treatment, planning, coordinating care, ~~or~~
17 discharge, or governmentally mandated public health reporting.
18 Entities shall not redisclose any personally identifiable
19 information, unless necessary for admission, treatment,
20 planning, coordinating care, ~~or~~ discharge, or governmentally
21 mandated public health reporting ~~of the identified recipient to~~
22 another setting. No records or communications may be disclosed
23 to a county jail or State correctional facility pursuant to
24 this Section unless the Department has entered into a written
25 agreement with the county jail or State correctional facility
26 requiring that the county jail or State correctional facility

1 adopt written policies and procedures designed to ensure that
2 the records and communications are disclosed only to those
3 persons employed by or under contract to the county jail or
4 State correctional facility who are involved in the provision
5 of mental health services to inmates and that the records and
6 communications are protected from further disclosure.

7 (Source: P.A. 96-1399, eff. 7-29-10; 96-1453, eff. 8-20-10;
8 97-946, eff. 8-13-12.)

9 (740 ILCS 110/9.4)

10 Sec. 9.4. Disclosure for treatment and coordination of
11 care.

12 (a) For recipients in a program administered or operated by
13 the Department of Healthcare and Family Services or the
14 Department of Human Services (as successor to the Department of
15 Mental Health and Developmental Disabilities), records of a
16 recipient may be disclosed without consent by county jails,
17 insurance companies, integrated health systems, and State
18 agencies, including the Department of Corrections, the
19 Department of Children and Family Services, the Department of
20 Healthcare and Family Services and the Department of Human
21 Services, to hospitals, physicians, therapists, emergency
22 medical personnel, and members of an interdisciplinary team
23 treating a recipient for the purposes of treatment and
24 coordination of care.

25 (b) An interdisciplinary team treating a recipient may

1 disclose the recipient's records without the recipient's
2 consent to other members of the team.

3 (c) The records that may be disclosed under this Section
4 are services rendered, providers rendering the services,
5 pharmaceuticals prescribed or dispensed, and diagnoses. All
6 disclosures under this Section must be made in a manner
7 consistent with existing federal and State laws and
8 regulations, including the federal Health Insurance
9 Portability and Accountability Act (HIPAA).

10 (d) ~~(Blank). For the purpose of this Section only:~~

11 ~~"Integrated health system" means an organization with~~
12 ~~a system of care which incorporates physical and behavioral~~
13 ~~healthcare and includes care delivered in an inpatient and~~
14 ~~outpatient setting.~~

15 ~~"Interdisciplinary team" means a group of persons,~~
16 ~~representing different clinical disciplines (medicine,~~
17 ~~nursing, social work, psychology, etc.) providing and~~
18 ~~coordinating the care and treatment for a person with~~
19 ~~mental illness. The group may be composed of individuals~~
20 ~~employed by one provider or multiple providers.~~

21 (Source: P.A. 97-515, eff. 8-23-11.)

22 (740 ILCS 110/9.5 new)

23 Sec. 9.5. Use and disclosure of information to an HIE.

24 (a) An HIE, person, therapist, facility, agency,
25 interdisciplinary team, integrated health system, business

1 associate, or covered entity may, without a recipient's
2 consent, use or disclose information from a recipient's record
3 in connection with an HIE, including disclosure to the Illinois
4 Health Information Exchange Authority, an HIE, or the business
5 associate of either. An HIE and its business associate may,
6 without a recipient's consent, use or disclose and re-disclose
7 such information for HIE purposes or for such other purposes as
8 are specifically allowed under this Act.

9 (b) As used in this Section:

10 (1) "facility" means a developmental disability
11 facility as defined in Section 1-107 of the Mental Health
12 and Developmental Disabilities Code or a mental health
13 facility as defined in Section 1-114 of the Mental Health
14 and Developmental Disabilities Code; and

15 (2) the terms "disclosure" and "use" have the meanings
16 ascribed to them under HIPAA, as specified in 45 CFR
17 160.103.

18 (740 ILCS 110/9.6 new)

19 Sec. 9.6. HIE opt-out. The Illinois Health Information
20 Exchange Authority shall, through appropriate rules,
21 standards, or contractual obligations, which shall be binding
22 upon any HIE, as defined under Section 2, require that
23 participants of such HIE provide each recipient whose record is
24 accessible through the health information exchange the
25 reasonable opportunity to expressly decline the further

1 disclosure of the record by the health information exchange to
2 third parties, except to the extent permitted by law such as
3 for purposes of public health reporting. These rules,
4 standards, or contractual obligations shall permit a recipient
5 to revoke a prior decision to opt-out or a decision not to
6 opt-out. These rules, standards, or contractual obligations
7 shall provide for written notice of a recipient's right to
8 opt-out which directs the recipient to a health information
9 exchange website containing (i) an explanation of the purposes
10 of the health information exchange; and (ii) audio, visual, and
11 written instructions on how to opt-out of participation in
12 whole or in part to the extent possible. These rules,
13 standards, or contractual obligations shall be reviewed
14 annually and updated as the technical options develop. The
15 recipient shall be provided meaningful disclosure regarding
16 the health information exchange, and the recipient's decision
17 whether to opt-out should be obtained without undue inducement
18 or any element of force, fraud, deceit, duress, or other form
19 of constraint or coercion. To the extent that HIPAA, as
20 specified in 45 CFR 164.508(b)(4), prohibits a covered entity
21 from conditioning the provision of its services upon an
22 individual's provision of an authorization, an HIE participant
23 shall not condition the provision of its services upon a
24 recipient's decision to opt-out of further disclosure of the
25 record by an HIE to third parties. The Illinois Health
26 Information Exchange Authority shall, through appropriate

1 rules, standards, or contractual obligations, which shall be
2 binding upon any HIE, as defined under Section 2, give
3 consideration to the format and content of the meaningful
4 disclosure and the availability to recipients of information
5 regarding an HIE and the rights of recipients under this
6 Section to expressly decline the further disclosure of the
7 record by an HIE to third parties. The Illinois Health
8 Information Exchange Authority shall also give annual
9 consideration to enable a recipient to expressly decline the
10 further disclosure by an HIE to third parties of selected
11 portions of the recipient's record while permitting disclosure
12 of the recipient's remaining patient health information. In
13 establishing rules, standards, or contractual obligations
14 binding upon HIEs under this Section to give effect to
15 recipient disclosure preferences, the Illinois Health
16 Information Exchange Authority in its discretion may consider
17 the extent to which relevant health information technologies
18 reasonably available to therapists and HIEs in this State
19 reasonably enable the effective segmentation of specific
20 information within a recipient's electronic medical record and
21 reasonably enable the effective exclusion of specific
22 information from disclosure by an HIE to third parties, as well
23 as the availability of sufficient authoritative clinical
24 guidance to enable the practical application of such
25 technologies to effect recipient disclosure preferences. The
26 provisions of this Section 9.6 shall not apply to the secure

1 electronic transmission of data which is point-to-point
2 communication directed by the data custodian. Any rules or
3 standards promulgated under this Section which apply to HIEs
4 shall be limited to that subject matter required by this
5 Section and shall not include any requirement that an HIE enter
6 a data sharing arrangement or otherwise participate with the
7 Illinois Health Information Exchange. In connection with its
8 annual consideration regarding the issue of segmentation of
9 information within a medical record and prior to the adoption
10 of any rules or standards regarding that issue, the Authority
11 Board shall consider information provided by affected persons
12 or organizations regarding the feasibility, availability,
13 cost, reliability, and interoperability of any technology or
14 process under consideration by the Board. Nothing in this Act
15 shall be construed to limit the authority of the Illinois
16 Health Information Exchange Authority to impose limits or
17 conditions on consent for disclosures to or through any HIE, as
18 defined under Section 2, which are more restrictive than the
19 requirements under this Act or under HIPAA.

20 (740 ILCS 110/9.7 new)

21 Sec. 9.7. Other limitations on consent requirements. The
22 consent requirements under Section 5 may not be required for
23 the use or disclosure (as those terms are defined under HIPAA,
24 as specified in 45 CFR 160.103) of a record or communication
25 disclosed (as that term is defined under HIPAA, as specified in

1 45 CFR 160.103) to or through an HIE for HIE purposes and in
2 accordance with this Act.

3 (740 ILCS 110/9.8 new)

4 Sec. 9.8. Business associates. An HIE, person, therapist,
5 facility, agency, interdisciplinary team, integrated health
6 system, business associate, covered entity, the Illinois
7 Health Information Exchange Authority, or entity facilitating
8 the establishment or operation of an HIE may, without a
9 recipient's consent, utilize the services of and disclose
10 information from a recipient's record to a business associate,
11 as defined by and in accordance with the requirements set forth
12 under HIPAA. As used in this Section, the term "disclosure" has
13 the meaning ascribed to it by HIPAA, as specified in 45 CFR
14 160.103.

15 (740 ILCS 110/9.9 new)

16 Sec. 9.9. Record locator service.

17 (a) An HIE, person, therapist, facility, agency,
18 interdisciplinary team, integrated health system, business
19 associate, covered entity, the Illinois Health Information
20 Exchange Authority, or entity facilitating the establishment
21 or operation of an HIE may, without a recipient's consent,
22 disclose the existence of a recipient's record to a record
23 locator service, master patient index, or other directory or
24 services necessary to support and enable the establishment and

1 operation of an HIE.

2 (b) As used in this Section:

3 (1) the term "disclosure" has the meaning ascribed to
4 it under HIPAA, as specified in 45 CFR 160.103; and

5 (2) "facility" means a developmental disability
6 facility as defined in Section 1-107 of the Mental Health
7 and Developmental Disabilities Code or a mental health
8 facility as defined in Section 1-114 of the Mental Health
9 and Developmental Disabilities Code.

10 (740 ILCS 110/9.10 new)

11 Sec. 9.10. Interagency disclosures by HIE. Nothing in this
12 Act shall be construed to limit the use of an HIE to facilitate
13 the disclosure or re-disclosure of information from a
14 recipient's record to any agency or department of this State as
15 authorized by Sections 7.1, 9.2 and 9.4 of this Act.
16 Notwithstanding the foregoing, nothing in this Act shall be
17 construed to allow for the disclosure or re-disclosure of
18 information from a recipient's record to law enforcement
19 personnel or for law enforcement purposes.

20 (740 ILCS 110/9.11 new)

21 Sec. 9.11. Establishment and disclosure of limited data
22 sets and de-identified information.

23 (a) An HIE, person, therapist, facility, agency,
24 interdisciplinary team, integrated health system, business

1 associate, covered entity, the Illinois Health Information
2 Exchange Authority, or entity facilitating the establishment
3 or operation of an HIE may, without a recipient's consent, use
4 information from a recipient's record to establish, or disclose
5 such information to a business associate to establish, and
6 further disclose information from a recipient's record as part
7 of a limited data set as defined by and in accordance with the
8 requirements set forth under HIPAA, as specified in 45 CFR
9 164.514(e). An HIE, person, therapist, facility, agency,
10 interdisciplinary team, integrated health system, business
11 associate, covered entity, the Illinois Health Information
12 Exchange Authority, or entity facilitating the establishment
13 or operation of an HIE may, without a recipient's consent, use
14 information from a recipient's record or disclose information
15 from a recipient's record to a business associate to
16 de-identity the information in accordance with HIPAA, as
17 specified in 45 CFR 164.514.

18 (b) As used in this Section:

19 (1) the terms "disclosure" and "use" shall have the
20 meanings ascribed to them by HIPAA, as specified in 45 CFR
21 160.103; and

22 (2) "facility" means a developmental disability
23 facility as defined in Section 1-107 of the Mental Health
24 and Developmental Disabilities Code or a mental health
25 facility as defined in Section 1-114 of the Mental Health
26 and Developmental Disabilities Code.

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

2 Sec. 11. Disclosure of records and communications. Records
3 and communications may be disclosed:

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

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

16 (iii) when, and to the extent disclosure is, in the
17 sole discretion of the therapist, necessary to the
18 provision of emergency medical care to a recipient who is
19 unable to assert or waive his or her rights hereunder;

20 (iv) when disclosure is necessary to collect sums or
21 receive third party payment representing charges for
22 mental health or developmental disabilities services
23 provided by a therapist or agency to a recipient under
24 Chapter V of the Mental Health and Developmental
25 Disabilities Code or to transfer debts under the

1 Uncollected State Claims Act; however, disclosure shall be
2 limited to information needed to pursue collection, and the
3 information so disclosed shall not be used for any other
4 purposes nor shall it be redisclosed except in connection
5 with collection activities;

6 (v) when requested by a family member, the Department
7 of Human Services may assist in the location of the
8 interment site of a deceased recipient who is interred in a
9 cemetery established under Section 26 of the Mental Health
10 and Developmental Disabilities Administrative Act;

11 (vi) in judicial proceedings under Article VIII of
12 Chapter III and Article V of Chapter IV of the Mental
13 Health and Developmental Disabilities Code and proceedings
14 and investigations preliminary thereto, to the State's
15 Attorney for the county or residence of a person who is the
16 subject of such proceedings, or in which the person is
17 found, or in which the facility is located, to the attorney
18 representing the petitioner in the judicial proceedings,
19 to the attorney representing the recipient in the judicial
20 proceedings, to any person or agency providing mental
21 health services that are the subject of the proceedings and
22 to that person's or agency's attorney, to any court
23 personnel, including but not limited to judges and circuit
24 court clerks, and to a guardian ad litem if one has been
25 appointed by the court. Information disclosed under this
26 subsection shall not be utilized for any other purpose nor

1 be redisclosed except in connection with the proceedings or
2 investigations. Copies of any records provided to counsel
3 for a petitioner shall be deleted or destroyed at the end
4 of the proceedings and counsel for petitioner shall certify
5 to the court in writing that he or she has done so. At the
6 request of a recipient or his or her counsel, the court
7 shall issue a protective order insuring the
8 confidentiality of any records or communications provided
9 to counsel for a petitioner;

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

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

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

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

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

25 ~~and~~

26 (xii) in accordance with Section 55 of the Abuse of

1 Adults with Disabilities Intervention Act; and ~~or~~

2 (xiii) to an HIE as specifically allowed under this Act
3 for HIE purposes and in accordance with any applicable
4 requirements of the HIE.

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

15 (Source: P.A. 96-466, eff. 8-14-09; 97-333, eff. 8-12-11;
16 97-375, eff. 8-15-11.)

17 (740 ILCS 110/13) (from Ch. 91 1/2, par. 813)

18 Sec. 13. Whenever disclosure of a record or communication
19 is made without consent pursuant to this Act, other than uses,
20 disclosures, or redisclosures permitted under Sections 9.5,
21 9.8, 9.9, 9.10, and 9.11 of this Act, or other than uses,
22 disclosures, or redisclosures permitted under Sections 9, 9.2,
23 and 9.4 of this Act effected by electronic transmission, or
24 whenever a record is used pursuant to Sections 7 and 8 of this
25 Act, a notation of the information disclosed and the purpose of

1 such disclosure or use shall be noted in the recipient's record
2 together with the date and the name of the person to whom
3 disclosure was made or by whom the record was used.

4 (Source: P.A. 80-1508.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.