

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 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
17 there are compelling reasons for denying the access. The
18 parent or guardian who is denied access by either the
19 recipient or the therapist may petition a court for access
20 to the record. Nothing in this paragraph is intended to
21 prohibit the parent or guardian of a recipient who is at
22 least 12 but under 18 years from requesting and receiving
23 the following information: current physical and mental

1 condition, diagnosis, treatment needs, services provided,
2 and services needed, including medication, if any;

3 (3.5) the parent or guardian of a minor, regardless of
4 the minor's age, who is involved in special education
5 services under Section 14-1.11 of the School Code, if the
6 parent or guardian consented to mental health or
7 developmental services on behalf of the recipient; or the
8 designated representative of a student over the age of 18
9 involved in special education services under Section
10 14-6.10 of the School Code ~~the personal representative~~
11 ~~under HIPAA, 45 CFR 164.502(g), of a recipient, regardless~~
12 ~~of the age of the 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 (8) any person in whose care and custody the recipient
26 has been placed pursuant to Section 3-811 of the Mental

1 Health and Developmental Disabilities Code.

2 (b) Assistance in interpreting the record may be provided
3 without charge and shall be provided if the person inspecting
4 the record is under 18 years of age. However, access may in no
5 way be denied or limited if the person inspecting the record
6 refuses the assistance. A reasonable fee may be charged for
7 duplication of a record. However, when requested to do so in
8 writing by any indigent recipient, the custodian of the
9 records shall provide at no charge to the recipient, or to the
10 Guardianship and Advocacy Commission, the agency designated by
11 the Governor under Section 1 of the Protection and Advocacy
12 for Persons with Developmental Disabilities Act or to any
13 other not-for-profit agency whose primary purpose is to
14 provide free legal services or advocacy for the indigent and
15 who has received written authorization from the recipient
16 under Section 5 of this Act to receive his records, one copy of
17 any records in its possession whose disclosure is authorized
18 under this Act.

19 (c) Any person entitled to access to a record under this
20 Section may submit a written statement concerning any disputed
21 or new information, which statement shall be entered into the
22 record. Whenever any disputed part of a record is disclosed,
23 any submitted statement relating thereto shall accompany the
24 disclosed part. Additionally, any person entitled to access
25 may request modification of any part of the record which he
26 believes is incorrect or misleading. If the request is

1 refused, the person may seek a court order to compel
2 modification.

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

6 (e) Nothing in this Section shall be construed to affect
7 the protection of or access to records under the Illinois
8 School Students Records Act or the federal Individuals with
9 Disabilities Education Act.

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