

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, if the minor is involved in special
5 education services under Section 14-1.11 of the School
6 Code, and only for the purpose of inspecting and copying a
7 record of the specific mental health or developmental
8 services that the parent or guardian consented to on the
9 recipient's behalf for special education services; or the
10 designated representative of a student over the age of 18
11 involved in special education services under Section
12 14-6.10 of the School Code ~~the personal representative~~
13 ~~under HIPAA, 45 CFR 164.502(g), of a recipient, regardless~~
14 ~~of the age of the recipient;~~

15 (4) the guardian of a recipient who is 18 years or
16 older;

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

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

25 (7) an attorney-in-fact appointed under the Mental
26 Health Treatment Preference Declaration Act; or

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

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

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

1 may request modification of any part of the record which he
2 believes is incorrect or misleading. If the request is
3 refused, the person may seek a court order to compel
4 modification.

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

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

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