Sen. Laura Fine

Filed: 5/15/2026

AMENDMENT TO SENATE BILL 3750

AMENDMENT NO. _____. Amend Senate Bill 3750, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Mental Health and Developmental Disabilities Code is amended by changing Sections 1-129, 2-107, 2-107.1, 3-611, 3-807, and 6-103 and by adding Sections 1-103.5 and 3-707 as follows:

(405 ILCS 5/1-103.5 new)

Sec. 1-103.5. Confinement. "Confinement", with respect to a mental health facility, means that an individual is prevented or otherwise not permitted to leave the facility.

(405 ILCS 5/1-129)

Sec. 1-129. Mental illness. "Mental illness" means a mental, or emotional disorder that substantially impairs a

person's thought, perception of reality, emotional process, judgment, behavior, or ability to cope with the ordinary demands of life, but does not include a developmental disability, a neurocognitive disorder ~~dementia or Alzheimer's disease~~ absent psychosis, a substance use disorder, or an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

(Source: P.A. 100-759, eff. 1-1-19.)

(405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

Sec. 2-107. Refusal of services; informing of risks.

(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services

available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services.

(b) Psychotropic medication or electroconvulsive therapy may be administered under this Section for up to 24 hours only if the circumstances leading up to the need for emergency treatment are set forth in writing in the recipient's record.

(c) Administration of medication or electroconvulsive therapy may not be continued unless the need for such treatment is redetermined at least every 24 hours based upon a personal examination of the recipient by a physician or a nurse under the supervision of a physician and the circumstances demonstrating that need are set forth in writing in the recipient's record.

(d) Neither psychotropic medication nor electroconvulsive therapy may be administered under this Section for a period in excess of 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition is filed under Section 2-107.1 and the treatment continues to be necessary under subsection (a) of this Section. Once the petition has been filed, treatment may continue in compliance with subsections (a), (b), and (c) of this Section until the final outcome of the hearing on the petition.

(e) The Department shall issue rules designed to ensure ~~insure~~ that in State-operated mental health facilities psychotropic medication and electroconvulsive therapy are

administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. The facility director of each mental health facility not operated by the State shall issue rules designed to ensure ~~insure~~ that in that facility psychotropic medication and electroconvulsive therapy are administered in accordance with this Section and only when appropriately authorized and monitored by a physician or a nurse under the supervision of a physician in accordance with accepted medical practice. Such rules shall be available for public inspection and copying during normal business hours.

(f) The provisions of this Section with respect to the emergency administration of psychotropic medication and electroconvulsive therapy do not apply to facilities licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act.

(g) Under no circumstances may long-acting psychotropic medications be administered under this Section.

(h) Whenever psychotropic medication or electroconvulsive therapy is refused pursuant to subsection (a) of this Section at least once that day, the physician or advanced practice psychiatric nurse shall determine and state in writing the reasons why the recipient did not meet the criteria for administration of medication or electroconvulsive therapy

under subsection (a) and whether the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1 of this Code. If the physician or advanced practice psychiatric nurse determines that the recipient meets the standard for administration of psychotropic medication or electroconvulsive therapy under Section 2-107.1, the facility director or his or her designee shall petition the court for administration of psychotropic medication or electroconvulsive therapy pursuant to that Section unless the facility director or his or her designee states in writing in the recipient's record why the filing of such a petition is not warranted. This subsection (h) applies only to State-operated mental health facilities.

(i) The Department shall conduct annual trainings for all physicians and registered nurses working in State-operated mental health facilities on the appropriate use of emergency administration of psychotropic medication and electroconvulsive therapy, standards for their use, and the methods of authorization under this Section.

(Source: P.A. 98-104, eff. 7-22-13; 99-180, eff. 7-29-15.)

(405 ILCS 5/2-107.1) (from Ch. 91 1/2, par. 2-107.1)

Sec. 2-107.1. Administration of psychotropic medication and electroconvulsive therapy upon application to a court.

(a) (Blank).

(a-5) Notwithstanding the provisions of Section 2-107 of

this Code, psychotropic medication and electroconvulsive therapy may be administered to an adult recipient of services on an inpatient or outpatient basis without the informed consent of the recipient under the following standards:

(1) Any person 18 years of age or older, including any guardian, may petition the circuit court for an order authorizing the administration of psychotropic medication and electroconvulsive therapy to a recipient of services. The petition shall state that the petitioner has made a good faith attempt to determine whether the recipient has executed a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act and to obtain copies of these instruments if they exist. If either of the above-named instruments is available to the petitioner, the instrument or a copy of the instrument shall be attached to the petition as an exhibit. The petitioner shall deliver a copy of the petition~~,~~ and notice of the time and place of the hearing~~,~~ to the respondent, his or her attorney, any known agent or attorney-in-fact, if any, and the guardian, if any, no later than 3 days prior to the date of the hearing. Service of the petition and notice of the time and place of the hearing may be made upon parties other than the respondent by transmitting them via facsimile machine, secure or encrypted electronic mail, or

by operation of an electronic filing manager service authorized by the Supreme Court. Service of the petition and notice of the time and place of the hearing upon a respondent may be accomplished by any one of the following:

(A) In a manner authorized by Sections 2-202 and 2-203 of the Code of Civil Procedure.

(B) Handing a copy of the petition and notice to the respondent together with a waiver of personal service. The waiver may be returned to the party delivering the petition and notice. If the party delivering the petition and notice to the respondent does not receive the waiver, the service must be by personal service.

(C) If the respondent is confined to a mental health facility, handing a copy of the petition and notice to the respondent, provided the party delivering the petition and notice to the respondent files within 24 hours a certification naming the party served and stating the means, place, date, and time of service. The certification may be contained in the body of the petition. If no certification of service is filed before the matter is set for hearing, then service must be made by personal service. ~~to the respondent or other party. Upon receipt of the petition and notice, the party served, or the person~~

~~delivering the petition and notice to the party served, shall acknowledge service. If the party sending the petition and notice does not receive acknowledgement of service within 24 hours, service must be made by personal service.~~

A petition seeking authorization for the administration of psychotropic medication shall state the name of each psychotropic medication for which authorization is sought and the anticipated range of dosages for each such medication.

A petition may also request authorization for alternative or alternate psychotropic medications. Any such request shall state the name of each alternative or alternate psychotropic medication, the anticipated range of dosages for each such medication, and any combinations of medications that may be administered simultaneously. The petition may set forth such combinations by identifying specific medication-to-medication combinations or by identifying therapeutic classifications of specified medications and the combinations of such classifications for which authorization is sought.

The information required under this subsection may appear in the body of the petition or in an exhibit attached to and expressly incorporated into the petition. The petition may include a request that the court authorize such testing and procedures as may be essential

for the safe and effective administration of the psychotropic medication or electroconvulsive therapy sought to be administered, but only where the petition sets forth the specific testing and procedures sought to be administered.

If a hearing is requested to be held immediately following the hearing on a petition for involuntary admission, then the notice requirement shall be the same as that for the hearing on the petition for involuntary admission, and the petition filed pursuant to this Section shall be filed with the petition for involuntary admission.

(2) The court shall hold a hearing within 7 days of the filing of the petition. The People, the petitioner, or the respondent shall be entitled to a continuance of up to 7 days as of right. An additional continuance of not more than 7 days may be granted to any party (i) upon a showing that the continuance is needed in order to adequately prepare for or present evidence in a hearing under this Section or (ii) under exceptional circumstances. The court may grant an additional continuance not to exceed 21 days when, in its discretion, the court determines that such a continuance is necessary in order to provide the recipient with an examination pursuant to Section 3-803 or 3-804 of this Act, to provide the recipient with a trial by jury as provided in Section 3-802 of this Act, or to arrange for

the substitution of counsel as provided for by the Illinois Supreme Court Rules. The hearing shall be separate from a judicial proceeding held to determine whether a person is subject to involuntary admission but may be heard immediately preceding or following such a judicial proceeding and may be heard by the same trier of fact or law as in that judicial proceeding.

(3) Unless otherwise provided herein, the procedures set forth in Article VIII of Chapter III of this Act, including the provisions regarding appointment of counsel, shall govern hearings held under this subsection (a-5).

(4) Psychotropic medication and electroconvulsive therapy may be administered to the recipient if and only if it has been determined by clear and convincing evidence that: ~~all of the following factors are present. In determining whether a person meets the criteria specified in the following paragraphs (A) through (G), the court may consider evidence of the person's history of serious violence, repeated past pattern of specific behavior, actions related to the person's illness, or past outcomes of various treatment options.~~

(A) ~~That~~ the recipient has a serious mental illness or developmental disability; ~~.~~

(B) ~~That~~ because of said mental illness or developmental disability, the recipient currently exhibits any one of the following: (i) deterioration

of his or her ability to function, as compared to the recipient's ability to function prior to the current onset of symptoms of the mental illness or disability for which treatment is presently sought, (ii) suffering, or (iii) threatening behavior;~~.~~

(C) ~~That~~ the illness or disability has existed for a period marked by the continuing presence of the symptoms set forth in item (B) of this subdivision (4) or the repeated episodic occurrence of these symptoms;~~.~~

(D) ~~That~~ the benefits of the treatment outweigh the harm;~~.~~

(E) ~~That~~ the recipient lacks the capacity to make a reasoned decision about the treatment;~~.~~

(F) ~~That~~ other less restrictive services have been explored and found inappropriate; and~~.~~

(G) if ~~If~~ the petition seeks authorization for testing and other procedures, ~~that~~ such testing and procedures are essential for the safe and effective administration of the treatment.

(4.5) In determining whether there is clear and convincing evidence, the court may consider evidence presented, if any, about a recipient's history of serious violence, repeated past pattern of specific behavior or singular actions related to the recipient's illness, or outcomes of past treatments.

(5) In no event shall an order issued under this Section be effective for more than 90 days. A second 90-day period of involuntary treatment may be authorized pursuant to a hearing that complies with the standards and procedures of this subsection (a-5). Thereafter, additional 180-day periods of involuntary treatment may be authorized pursuant to the standards and procedures of this Section without limit. If a new petition to authorize the administration of psychotropic medication or electroconvulsive therapy is filed at least 15 days prior to the expiration of the prior order, and if any continuance of the hearing is agreed to by the recipient, the administration of the treatment may continue in accordance with the prior order pending the completion of a hearing under this Section.

(6) An order issued under this subsection (a-5) shall designate the persons authorized to administer the treatment under the standards and procedures of this subsection (a-5). Those persons shall have complete discretion not to administer any treatment authorized under this Section. The order shall also specify the medications and the anticipated range of dosages that have been authorized ~~and may include a list of any alternative medications and range of dosages deemed necessary~~.

(a-10) The court may, in its discretion, appoint a guardian ad litem for a recipient before the court or

authorize an existing guardian of the person to monitor treatment and compliance with court orders under this Section.

(b) A guardian may be authorized to consent to the administration of psychotropic medication or electroconvulsive therapy to an objecting recipient only under the standards and procedures of subsection (a-5).

(c) Notwithstanding any other provision of this Section, a guardian may consent to the administration of psychotropic medication or electroconvulsive therapy to a non-objecting recipient under Article XIa of the Probate Act of 1975.

(d) Nothing in this Section shall prevent the administration of psychotropic medication or electroconvulsive therapy to recipients in an emergency under Section 2-107 of this Act.

(e) Notwithstanding any of the provisions of this Section, psychotropic medication or electroconvulsive therapy may be administered pursuant to a power of attorney for health care under the Powers of Attorney for Health Care Law or a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act over the objection of the recipient if the recipient has not revoked the power of attorney or declaration for mental health treatment as provided in the relevant statute.

(f) The Department shall conduct annual trainings for physicians and registered nurses working in State-operated mental health facilities on the appropriate use of

psychotropic medication and electroconvulsive therapy, standards for their use, and the preparation of court petitions under this Section before any such psychiatrists or advanced practice psychiatric nurses may petition the court or testify at a hearing under this Section.

(Source: P.A. 100-710, eff. 8-3-18.)

(405 ILCS 5/3-611) (from Ch. 91 1/2, par. 3-611)

Sec. 3-611. Filing petition, first certificate, and proof of service.

(a) Within 24 hours, excluding Saturdays, Sundays and holidays, after the respondent's admission under this Article, the facility director of the facility shall file 2 copies of the petition, the first certificate, and proof of service of the petition and statement of rights upon the respondent with the court in the county in which the facility is located.

(b) Upon completion of the second certificate, the facility director shall promptly file it with the court and provide a copy to the respondent.

(c) The facility director shall make copies of the certificates available to the attorneys for the parties upon request.

(d) Upon the filing of the petition and first certificate, the court shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, after receipt of the petition. The court shall direct that notice of the time

and place of the hearing be served upon the respondent, his responsible relatives, and the persons entitled to receive a copy of the petition pursuant to Section 3-609.

(e) For purposes of this Section, (1) a respondent is admitted to a mental health facility upon the respondent's confinement and (2) a respondent who is ordered discharged in accordance with Section 3-809 or subsection (b) of Section 3-901, or discharged upon notice by the facility director as provided by subsection (a) of Section 3-903, remains admitted to a mental health facility until the respondent is physically released from the mental health facility and thereafter physically enters a mental health facility.

(Source: P.A. 98-865, eff. 8-8-14.)

(405 ILCS 5/3-707 new)

Sec. 3-707. Dismissal of petition; discharge of respondent. If a petition alleging that the respondent is subject to involuntary admission is voluntarily or involuntarily dismissed prior to a hearing, the court shall order that the respondent be physically released from involuntary confinement at a mental health facility. The court shall delay the effectiveness of such an order for 24 hours, excluding Saturdays, Sundays, and holidays, to permit the filing of a new petition under the requirements of Article VI, upon a good-faith representation that the petitioner will file a legally sufficient petition. The court may consider the

circumstances, including the basis for the dismissal of the prior petition, or the filing of successive petitions, in its determination of good faith. Testimonial evidence shall not be required except upon the court's request. This Section does not preclude the respondent from seeking informal or voluntary admission to a mental health facility nor the detention of the respondent in accordance with the law of this State other than this Act.

(405 ILCS 5/3-807) (from Ch. 91 1/2, par. 3-807)

Sec. 3-807. Testimony. No respondent may be found subject to involuntary admission on an inpatient or outpatient basis unless at least one psychiatrist, clinical social worker, clinical psychologist, advanced practice psychiatric nurse, or qualified examiner who has examined the respondent testifies in person at the hearing. The respondent may waive the requirement of the testimony subject to the approval of the court.

(Source: P.A. 101-587, eff. 1-1-20.)

(405 ILCS 5/6-103) (from Ch. 91 1/2, par. 6-103)

Sec. 6-103. (a) All persons acting in good faith and without negligence in connection with the preparation of applications, petitions, certificates or other documents, for the apprehension, transportation, examination, treatment, habilitation, detention or discharge of an individual or

compliance with a court order for discharge under the provisions of this Act incur no liability, civil or criminal, by reason of such acts.

(b) There shall be no liability on the part of, and no cause of action shall arise against, any person who is a physician, clinical psychologist, advanced practice psychiatric nurse, or qualified examiner based upon that person's failure to warn of and protect from a recipient's threatened or actual violent behavior except where the recipient has communicated to the person a serious threat of physical violence against a reasonably identifiable victim or victims. Nothing in this Section shall relieve any employee or director of any residential mental health or developmental disabilities facility from any duty he may have to protect the residents of such a facility from any other resident.

(c) Any duty which any person may owe to anyone other than a resident of a mental health and developmental disabilities facility shall be discharged by that person making a reasonable effort to communicate the threat to the victim and to a law enforcement agency, or by a reasonable effort to obtain the hospitalization of the recipient.

(d) An act of omission or commission by a peace officer acting in good faith in rendering emergency assistance or otherwise enforcing this Code does not impose civil liability on the peace officer or his or her supervisor or employer unless the act is a result of willful or wanton misconduct.

(Source: P.A. 104-270, eff. 8-15-25.)".