

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 1. Short title. This Act may be cited as the Right  
5 of Minors to Consent to Counseling Services or Psychotherapy on  
6 an Outpatient Basis Act.

7 Section 5. Minors 12 years of age or older request to  
8 receive counseling services or psychotherapy on an outpatient  
9 basis.

10 (a) Any minor 12 years of age or older may request and  
11 receive counseling services or psychotherapy on an outpatient  
12 basis. The consent of the minor's parent, guardian, or person  
13 in loco parentis shall not be necessary to authorize outpatient  
14 counseling services or psychotherapy. However, until the  
15 consent of the minor's parent, guardian, or person in loco  
16 parentis has been obtained, outpatient counseling services or  
17 psychotherapy provided to a minor under the age of 17 shall be  
18 initially limited to not more than 8 90-minute sessions. The  
19 service provider shall consider the factors contained in  
20 subsection (a-1) of this Section throughout the therapeutic  
21 process to determine, through consultation with the minor,  
22 whether attempting to obtain the consent of a parent, guardian,  
23 or person in loco parentis would be detrimental to the minor's

1 well-being. No later than the eighth session, the service  
2 provider shall determine and share with the minor the service  
3 provider's decision as described below:

4 (1) If the service provider finds that attempting to  
5 obtain consent would not be detrimental to the minor's  
6 well-being, the provider shall notify the minor that the  
7 consent of a parent, guardian, or person in loco parentis  
8 is required to continue counseling services or  
9 psychotherapy.

10 (2) If the minor does not permit the service provider  
11 to notify the parent, guardian, or person in loco parentis  
12 for the purpose of consent after the eighth session the  
13 service provider shall discontinue counseling services or  
14 psychotherapy and shall not notify the parent, guardian, or  
15 person in loco parentis about the counseling services or  
16 psychotherapy.

17 (3) If the minor permits the service provider to notify  
18 the parent, guardian, or person in loco parentis for the  
19 purpose of consent, without discontinuing counseling  
20 services or psychotherapy, the service provider shall make  
21 reasonable attempts to obtain consent. The service  
22 provider shall document each attempt to obtain consent in  
23 the minor's clinical record. The service provider may  
24 continue to provide counseling services or psychotherapy  
25 without the consent of the minor's parent, guardian, or  
26 person in loco parentis if:

1           (A) the service provider has made at least 2  
2           unsuccessful attempts to contact the minor's parent,  
3           guardian, or person in loco parentis to obtain consent;  
4           and

5           (B) the service provider has obtained the minor's  
6           written consent.

7           (4) If, after the eighth session, the service provider  
8           of counseling services or psychotherapy determines that  
9           obtaining consent would be detrimental to the minor's  
10          well-being, the service provider shall consult with his or  
11          her supervisor when possible to review and authorize the  
12          determination under subsection (a) of this Section. The  
13          service provider shall document the basis for the  
14          determination in the minor's clinical record and may then  
15          accept the minor's written consent to continue to provide  
16          counseling services or psychotherapy without also  
17          obtaining the consent of a parent, guardian, or person in  
18          loco parentis.

19          (5) If the minor continues to receive counseling  
20          services or psychotherapy without the consent of a parent,  
21          guardian, or person in loco parentis beyond 8 sessions, the  
22          service provider shall evaluate, in consultation with his  
23          or her supervisor when possible, his or her determination  
24          under this subsection (a), and review the determination  
25          every 60 days until counseling services or psychotherapy  
26          ends or the minor reaches age 17. If it is determined

1 appropriate to notify the parent, guardian, or person in  
2 loco parentis and the minor consents, the service provider  
3 shall proceed under paragraph (3) of subsection (a) of this  
4 Section.

5 (6) When counseling services or psychotherapy are  
6 related to allegations of neglect, sexual abuse, or mental  
7 or physical abuse by the minor's parent, guardian, or  
8 person in loco parentis, obtaining consent of that parent,  
9 guardian, or person in loco parentis shall be presumed to  
10 be detrimental to the minor's well-being.

11 (a-1) Each of the following factors must be present in  
12 order for the service provider to find that obtaining the  
13 consent of a parent, guardian, or person in loco parentis would  
14 be detrimental to the minor's well-being:

15 (1) requiring the consent or notification of a parent,  
16 guardian, or person in loco parentis would cause the minor  
17 to reject the counseling services or psychotherapy;

18 (2) the failure to provide the counseling services or  
19 psychotherapy would be detrimental to the minor's  
20 well-being;

21 (3) the minor has knowingly and voluntarily sought the  
22 counseling services or psychotherapy; and

23 (4) in the opinion of the service provider, the minor  
24 is mature enough to participate in counseling services or  
25 psychotherapy productively.

26 (a-2) The minor's parent, guardian, or person in loco

1 parentis shall not be informed of the counseling services or  
2 psychotherapy without the written consent of the minor unless  
3 the service provider believes the disclosure is necessary under  
4 subsection (a) of this Section. If the facility director or  
5 service provider intends to disclose the fact of counseling  
6 services or psychotherapy, the minor shall be so informed and  
7 if the minor chooses to discontinue counseling services or  
8 psychotherapy after being informed of the decision of the  
9 facility director or service provider to disclose the fact of  
10 counseling services or psychotherapy to the parent, guardian,  
11 or person in loco parentis, then the parent, guardian, or  
12 person in loco parentis shall not be notified. Under the Mental  
13 Health and Developmental Disabilities Confidentiality Act, the  
14 facility director, his or her designee, or the service provider  
15 shall not allow the minor's parent, guardian, or person in loco  
16 parentis, upon request, to inspect or copy the minor's record  
17 or any part of the record if the service provider finds that  
18 there are compelling reasons for denying the access. Nothing in  
19 this Section shall be interpreted to limit a minor's privacy  
20 and confidentiality protections under State law.

21 (b) The minor's parent, guardian, or person in loco  
22 parentis shall not be liable for the costs of outpatient  
23 counseling services or psychotherapy which is received by the  
24 minor without the consent of the minor's parent, guardian, or  
25 person in loco parentis.

26 (c) Counseling services or psychotherapy provided under

1 this Section shall be provided in compliance with the  
2 Professional Counselor and Clinical Professional Counselor  
3 Licensing and Practice Act, the Clinical Social Work and Social  
4 Work Practice Act, or the Clinical Psychologist Licensing Act.

5 (405 ILCS 5/3-501 rep.)

6 Section 105. The Mental Health and Developmental  
7 Disabilities Code is amended by repealing Section 3-501.

8 Section 999. Effective date. This Act takes effect upon  
9 becoming law.