

# HB4441



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB4441**

by Rep. Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

405 ILCS 5/3-501

from Ch. 91 1/2, par. 3-501

Amends the Mental Health and Developmental Disabilities Code. Provides that counseling services or psychotherapy on an outpatient basis provided to a civilly committed minor 12 years of age or older shall be provided in compliance with the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act, the Clinical Social Work and Social Work Practice Act, or the Clinical Psychologist Licensing Act (currently, the counseling services or psychotherapy must be provided in compliance with the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act or the Clinical Psychologist Licensing Act). Effective immediately.

LRB100 17143 RLC 32297 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 5. The Mental Health and Developmental  
5 Disabilities Code is amended by changing Section 3-501 as  
6 follows:

7 (405 ILCS 5/3-501) (from Ch. 91 1/2, par. 3-501)

8 Sec. 3-501. Minors 12 years of age or older request to  
9 receive counseling services or psychotherapy on an outpatient  
10 basis.

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

1 or person in loco parentis would be detrimental to the minor's  
2 well-being. No later than the eighth session, the service  
3 provider shall determine and share with the minor the service  
4 provider's decision as described below:

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

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

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

1 person in loco parentis if:

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

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

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

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

1 ends or the minor reaches age 17. If it is determined  
2 appropriate to notify the parent, guardian, or person in  
3 loco parentis and the minor consents, the service provider  
4 shall proceed under paragraph (3) of subsection (a) of this  
5 Section.

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

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

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

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

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

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

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

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

1           (c) Counseling services or psychotherapy provided under  
2 this Section shall be provided in compliance with the  
3 Professional Counselor and Clinical Professional Counselor  
4 Licensing and Practice Act, the Clinical Social Work and Social  
5 Work Practice Act, or the Clinical Psychologist Licensing Act.  
6 (Source: P.A. 100-196, eff. 1-1-18.)

7           Section 99. Effective date. This Act takes effect upon  
8 becoming law.