



Rep. Jennifer Gong-Gershowitz

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10200SB1970ham001

LRB102 17209 LNS 26266 a

1 AMENDMENT TO SENATE BILL 1970

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1970 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Mental Health and Developmental  
5 Disabilities Code is amended by adding Section 2-113.5 as  
6 follows:

7 (405 ILCS 5/2-113.5 new)

8 Sec. 2-113.5. Receipt of information concerning a  
9 recipient. An inpatient mental health facility is required to  
10 accept information, orally or in writing, from the recipient's  
11 family and friends concerning the recipient's treatment for  
12 mental illness, including hospitalization history,  
13 medications, diagnoses, and behaviors related to the  
14 recipient's mental illness. The recipient shall be notified  
15 that the facility has received information under this Section  
16 and that he or she has the right to respond pursuant to

1 subsection (c) of Section 4 of the Mental Health and  
2 Developmental Disabilities Confidentiality Act. A medical  
3 professional shall use his or her professional judgment to  
4 determine whether to rely on any information provided under  
5 this Section.

6 Section 10. The Mental Health and Developmental  
7 Disabilities Confidentiality Act is amended by adding Section  
8 5.5 as follows:

9 (740 ILCS 110/5.5 new)

10 Sec. 5.5. Limited access to basic mental health  
11 information.

12 (a) Each of the following individuals is entitled, upon  
13 request, to obtain the information listed in this Section  
14 pursuant to the procedures set forth in this Section if the  
15 individual resides with the recipient or is paying for the  
16 recipient's care:

17 (1) the parent of a recipient;

18 (2) the adult sibling of a recipient;

19 (3) the adult child of a recipient;

20 (4) the spouse of a recipient, if the spouse is  
21 residing with the recipient; and

22 (5) the adult grandchild of the recipient.

23 (b) An individual listed under subsection (a) is entitled  
24 to information under this Section if:

1           (1) the individual provides to the inpatient mental  
2 health facility:

3           (i) proof of identification; and

4           (ii) a statement, in writing, that the individual  
5 resides with the recipient or is paying for the  
6 recipient's care, and the statement includes the  
7 individual's name, address, phone number, and  
8 relationship to the recipient, a declaration that  
9 there is no current or pending order of protection  
10 involving both the individual and the recipient, and,  
11 if the individual is the spouse of the recipient, a  
12 declaration that no action is pending between the  
13 individual and the recipient under the Illinois  
14 Marriage and Dissolution of Marriage Act; and

15           (2) the recipient's treating physician determines, in  
16 writing and in the exercise of the physician's  
17 professional judgment, that, at the time any disclosure is  
18 made, the recipient lacks the capacity to make a reasoned  
19 decision about the disclosure under Section 5 and that the  
20 disclosure is in the recipient's best interest. When  
21 making a decision regarding the recipient's best interest,  
22 the physician shall give substantial consideration to any  
23 prior instructions from a recipient identifying  
24 individuals with whom the recipient's information may be  
25 shared. No disclosure pursuant to this Section may be made  
26 at any time when a recipient has the capacity to make a

1 decision about the disclosure. If the recipient regains  
2 the capacity to make a reasoned decision about the  
3 disclosure while he or she is receiving treatment in the  
4 facility, the facility shall notify the recipient of the  
5 information disclosed and the person or persons to whom it  
6 was disclosed.

7 (c) An individual listed under subsection (a) is entitled  
8 to access the following information:

9 (1) whether the recipient is located at the mental  
10 health facility;

11 (2) plans for the discharge of the recipient,  
12 including the anticipated date and time of the discharge,  
13 if known, the address where the recipient will live, and  
14 the plans, if any, for the provision of treatment in the  
15 community following discharge for the mental health  
16 condition or conditions for which the recipient was  
17 receiving treatment at the inpatient mental health  
18 facility, including, but not limited to, medication and  
19 the identity of any person or agency that will be  
20 providing treatment to the recipient; and

21 (3) if the mental health facility has filed a petition  
22 for inpatient or outpatient commitment under Chapter III  
23 of the Mental Health and Developmental Disabilities Code,  
24 a copy of the petition.

25 (d) An individual who has received information under this  
26 Section shall not redisclose the information except as

1 necessary to provide for the recipient's care or payment for  
2 the recipient's care. The information shall be excluded from  
3 evidence in a proceeding and may not be used in any other way,  
4 unless it is being used to assert or prove that a person is  
5 subject to an involuntary admission on an inpatient or  
6 outpatient basis or whether psychotropic medication or  
7 electroconvulsive therapy may be administered under the Mental  
8 Health and Developmental Disabilities Code or to prove that a  
9 person is a person with a disability in need of an adult  
10 guardianship proceeding under Article XIa of the Probate Act  
11 of 1975.

12 (e) If access or modification of the information is  
13 requested, the request, the grounds for its acceptance or  
14 denial, and any action taken thereon shall be noted in the  
15 recipient's record.

16 (f) No information shall be disclosed under this Section  
17 if the recipient has either designated an agent under the  
18 Powers of Attorney for Health Care Law or an attorney-in-fact  
19 under the Mental Health Treatment Preference Declaration Act  
20 who is currently authorized to receive the information set  
21 forth in subsection (c).

22 (g) Any person who knowingly and willfully violates any  
23 provision of this Section is guilty of a Class A misdemeanor.

24 (h) Nothing in this Act shall be construed to violate 45  
25 CFR 106.203(b)."