



Rep. Jennifer Gong-Gershowitz

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10200SB1970ham002

LRB102 17209 LNS 26638 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 Confidentiality Act is amended by adding Section
6 5.5 as follows:

7 (740 ILCS 110/5.5 new)

8 Sec. 5.5. Limited access to basic mental health
9 information.

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

15 (1) the parent of a recipient;

16 (2) the adult sibling of a recipient;

1 (3) the adult child of a recipient;

2 (4) the spouse of a recipient, if the spouse is
3 residing with the recipient; and

4 (5) the adult grandchild of the recipient.

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

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

9 (i) proof of identification; and

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

21 (2) the recipient's treating physician determines, in
22 writing and in the exercise of the physician's
23 professional judgment, that, at the time any disclosure is
24 made, the recipient lacks the capacity to make a reasoned
25 decision about the disclosure under Section 5 and that the
26 disclosure is in the recipient's best interest. When

1 making a decision regarding the recipient's best interest,
2 the physician shall give substantial consideration to any
3 prior instructions from a recipient identifying
4 individuals with whom the recipient's information may be
5 shared. No disclosure pursuant to this Section may be made
6 at any time when a recipient has the capacity to make a
7 decision about the disclosure. If the recipient regains
8 the capacity to make a reasoned decision about the
9 disclosure while he or she is receiving treatment in the
10 facility, the facility shall notify the recipient of the
11 information disclosed and the person or persons to whom it
12 was disclosed.

13 This Section allows for the exchange of information
14 between individuals residing with the recipient or individuals
15 paying for the recipient's care and medical personnel without
16 informed consent when the recipient lacks the capacity for
17 informed consent. Once the recipient regains the capacity for
18 informed consent, this Section no longer applies and any
19 allowance for the exchange of information between individuals
20 authorized under this Section and the medical personnel is
21 terminated.

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

24 (1) whether the recipient is located at the mental
25 health facility;

26 (2) plans for the discharge of the recipient,

1 including the anticipated date and time of the discharge,
2 if known, the address where the recipient will live, and
3 the plans, if any, for the provision of treatment in the
4 community following discharge for the mental health
5 condition or conditions for which the recipient was
6 receiving treatment at the inpatient mental health
7 facility, including, but not limited to, medication
8 related to the recipient's mental health condition and the
9 identity of any person or agency that will be providing
10 treatment to the recipient; and

11 (3) if the mental health facility has filed a petition
12 for inpatient or outpatient commitment under Chapter III
13 of the Mental Health and Developmental Disabilities Code,
14 a copy of the petition.

15 (d) An individual who has received information under this
16 Section shall not redisclose the information except as
17 necessary to provide for the recipient's care or payment for
18 the recipient's care. The information shall be excluded from
19 evidence in a proceeding and may not be used in any other way,
20 unless it is being used to assert or prove that a person is
21 subject to an involuntary admission on an inpatient or
22 outpatient basis or whether psychotropic medication or
23 electroconvulsive therapy may be administered under the Mental
24 Health and Developmental Disabilities Code or to prove that a
25 person is a person with a disability in need of an adult
26 guardianship proceeding under Article XIa of the Probate Act

1 of 1975.

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

6 (f) No information shall be disclosed under this Section
7 if the recipient has either designated an agent under the
8 Powers of Attorney for Health Care Law or an attorney-in-fact
9 under the Mental Health Treatment Preference Declaration Act
10 who is currently authorized to receive the information set
11 forth in subsection (c).

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

14 (h) Nothing in this Section shall be construed to violate
15 federal or State laws concerning informed consent."