



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3812

Introduced 2/25/2005, by Rep. Julie Hamos

SYNOPSIS AS INTRODUCED:

405 ILCS 5/3-801

from Ch. 91 1/2, par. 3-801

405 ILCS 5/3-801.5 new

Amends the Mental Health and Developmental Disabilities Code. Adds provisions concerning a facility director's approval of a respondent's request for informal or voluntary admission. Provides that at any time before the conclusion of a hearing concerning admission to a mental health facility and the entry of the court's findings, a respondent may enter into an agreement to be subject to an order for alternative treatment or care and custody. States the conditions required for approval of such an agreed order and states other provisions concerning the entry of such an order.

LRB094 09019 DRJ 39240 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT in relation to 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 3-801 and
6 adding Section 3-801.5 as follows:

7 (405 ILCS 5/3-801) (from Ch. 91 1/2, par. 3-801)

8 Sec. 3-801. A respondent may request admission as an
9 informal or voluntary recipient at any time prior to an
10 adjudication that he is subject to involuntary admission. The
11 facility director shall approve such a request unless the
12 facility director determines that the respondent lacks the
13 capacity to consent to informal or voluntary admission or that
14 informal or voluntary admission is clinically inappropriate.
15 The director shall not find that voluntary admission is
16 clinically inappropriate in the absence of a documented history
17 of the respondent's illness and treatment demonstrating that
18 the respondent is unlikely to continue to receive needed
19 treatment following release from informal or voluntary
20 admission and that an order for alternative treatment or for
21 care and custody is necessary in order to ensure continuity of
22 treatment outside a mental health facility.

23 If the facility director approves such a request, the court
24 may dismiss the pending proceedings but may require proof that
25 such dismissal is in the best interest of the respondent and of
26 the public.

27 (Source: P.A. 88-380.)

28 (405 ILCS 5/3-801.5 new)

29 Sec. 3-801.5. Agreed order for alternative treatment or
30 care and custody.

31 (a) At any time before the conclusion of the hearing and

1 the entry of the court's findings, a respondent may enter into
2 an agreement to be subject to an order for alternative
3 treatment or care and custody as provided for in Sections
4 3-811, 3-812, 3-813, and 3-815 of this Code, provided that:

5 (1) The court and the parties have been presented with
6 a written report pursuant to Section 3-810 of this Code
7 containing a recommendation for alternative treatment or
8 care and custody and setting forth in detail the conditions
9 for such an order, and the court is satisfied that the
10 proposal for alternative treatment or care and custody is
11 in the best interest of the respondent and of the public.

12 (2) The court advises the respondent of the conditions
13 of the proposed order in open court and is satisfied that
14 the respondent understands and agrees to the conditions of
15 the proposed order for alternative treatment or care and
16 custody.

17 (3) The proposed custodian is advised of the
18 recommendation for care and custody and agrees to abide by
19 the terms of the proposed order.

20 (4) No such order may require the respondent to be
21 hospitalized except as provided in subsection (b) of this
22 Section.

23 (5) No order may include as one of its conditions the
24 administration of psychotropic medication, unless the
25 court determines, based on the documented history of the
26 respondent's treatment and illness, that the respondent is
27 unlikely to continue to receive needed psychotropic
28 medication in the absence of such an order.

29 (b) An agreed order of care and custody entered pursuant to
30 this Section may grant the custodian the authority to admit a
31 respondent to a hospital if the respondent fails to comply with
32 the conditions of the agreed order. If necessary in order to
33 obtain the hospitalization of the respondent, the custodian may
34 apply to the court for an order authorizing an officer of the
35 peace to take the respondent into custody and transport the
36 respondent to the hospital specified in the agreed order. The

1 provisions of Section 3-605 of this Code shall govern the
2 transportation of the respondent to a mental health facility,
3 except to the extent that those provisions are inconsistent
4 with this Section. However, a person admitted to a hospital
5 pursuant to powers granted under an agreed order for care and
6 custody shall be treated as a voluntary recipient pursuant to
7 Article IV of this Chapter and shall be advised immediately of
8 his or her right to request a discharge pursuant to Section
9 3-403 of this Code.

10 (c) If the court has appointed counsel for the respondent
11 pursuant to Section 3-805 of this Code, that appointment shall
12 continue for the duration of any order entered under this
13 Section, and the respondent shall be represented by counsel in
14 any proceeding held pursuant to this Section.

15 (d) An order entered under this Section shall not
16 constitute a finding that the respondent is subject to
17 involuntary admission.

18 (e) Nothing in this Section shall be deemed to create an
19 agency relationship between the respondent and any custodian
20 appointed pursuant to this Section.

21 (f) Notwithstanding any other provision of Illinois law, no
22 respondent may be cited for contempt for violating the terms
23 and conditions of his or her agreed order of care and custody.