



Rep. Dan Reitz

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FISCAL NOTE ACT  
MAY APPLY

09400SB0998ham003

LRB094 04681 DRJ 58202 a

1 AMENDMENT TO SENATE BILL 998

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 998, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Mental Health and Developmental  
6 Disabilities Code is amended by changing Sections 2-107,  
7 2-107.1, and 3-209 and by adding Section 2-107.3 as follows:

8 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

9 Sec. 2-107. Refusal of services; informing of risks.

10 (a) An adult recipient of services or the recipient's  
11 guardian, if the recipient is under guardianship, and the  
12 recipient's substitute decision maker, if any, must be informed  
13 of the recipient's right to refuse medication. The recipient  
14 and the recipient's guardian or substitute decision maker shall  
15 be given the opportunity to refuse generally accepted mental  
16 health or developmental disability services, including but not  
17 limited to medication. If such services are refused, they shall  
18 not be given unless such services are necessary to prevent the  
19 recipient from causing serious and imminent physical harm to  
20 the recipient or others and no less restrictive alternative is  
21 available. The facility director shall inform a recipient,  
22 guardian, or substitute decision maker, if any, who refuses  
23 such services of alternate services available and the risks of  
24 such alternate services, as well as the possible consequences

1 to the recipient of refusal of such services.

2 (b) Authorized involuntary treatment may be given under  
3 this Section for up to 24 hours only if the circumstances  
4 leading up to the need for emergency treatment are set forth in  
5 writing in the recipient's record.

6 (c) Authorized involuntary treatment may not be continued  
7 unless the need for such treatment is redetermined at least  
8 every 24 hours based upon a personal examination of the  
9 recipient by a physician or a nurse under the supervision of a  
10 physician and the circumstances demonstrating that need are set  
11 forth in writing in the recipient's record.

12 (d) Authorized involuntary treatment may not be  
13 administered under this Section for a period in excess of 72  
14 hours, excluding Saturdays, Sundays, and holidays, unless a  
15 petition is filed under Section 2-107.1 and the treatment  
16 continues to be necessary under subsection (a) of this Section.  
17 Once the petition has been filed, treatment may continue in  
18 compliance with subsections (a), (b), and (c) of this Section  
19 until the final outcome of the hearing on the petition.

20 (e) The Department shall issue rules designed to insure  
21 that in State-operated mental health facilities authorized  
22 involuntary treatment is administered in accordance with this  
23 Section and only when appropriately authorized and monitored by  
24 a physician or a nurse under the supervision of a physician in  
25 accordance with accepted medical practice. The facility  
26 director of each mental health facility not operated by the  
27 State shall issue rules designed to insure that in that  
28 facility authorized involuntary treatment is administered in  
29 accordance with this Section and only when appropriately  
30 authorized and monitored by a physician or a nurse under the  
31 supervision of a physician in accordance with accepted medical  
32 practice. Such rules shall be available for public inspection  
33 and copying during normal business hours.

34 (f) The provisions of this Section with respect to the

1 emergency administration of authorized involuntary treatment  
2 do not apply to facilities licensed under the Nursing Home Care  
3 Act.

4 (g) Under no circumstances may long-acting psychotropic  
5 medications be administered under this Section.

6 (h) Whenever services are refused pursuant to subsection  
7 (a) of this Section, the physician shall determine and state in  
8 writing the reasons why the recipient did not meet the criteria  
9 for involuntary treatment under subsection (a) and whether the  
10 recipient meets the standard for authorized involuntary  
11 treatment under Section 2-107.1 of this Code. If the physician  
12 determines that the recipient meets the standard for authorized  
13 involuntary treatment under Section 2-107.1, the facility  
14 director shall petition the court for authorized involuntary  
15 treatment pursuant to that Section unless the facility director  
16 states in writing in the recipient's record why the filing of  
17 such a petition is not warranted.

18 (i) The Department shall conduct annual trainings for all  
19 clinical personnel on the appropriate use of emergency  
20 authorized involuntary treatment, standards for its use, and  
21 the methods of authorization under this Section.

22 (Source: P.A. 90-538, eff. 12-1-97; 91-726, eff. 6-2-00.)

23 (405 ILCS 5/2-107.1) (from Ch. 91 1/2, par. 2-107.1)

24 Sec. 2-107.1. Administration of authorized involuntary  
25 treatment upon application to a court.

26 (a) An adult recipient of services and the recipient's  
27 guardian, if the recipient is under guardianship, and the  
28 substitute decision maker, if any, shall be informed of the  
29 recipient's right to refuse medication. The recipient and the  
30 recipient's guardian or substitute decision maker shall be  
31 given the opportunity to refuse generally accepted mental  
32 health or developmental disability services, including but not  
33 limited to medication.

1 (a-5) Notwithstanding the provisions of Section 2-107 of  
2 this Code, authorized involuntary treatment may be  
3 administered to an adult recipient of services without the  
4 informed consent of the recipient under the following  
5 standards:

6 (1) Any person 18 years of age or older, including any  
7 guardian, may petition the circuit court for an order  
8 authorizing the administration of authorized involuntary  
9 treatment to a recipient of services. The petition shall  
10 state that the petitioner has made a good faith attempt to  
11 determine whether the recipient has executed a power of  
12 attorney for health care under the Powers of Attorney for  
13 Health Care Law or a declaration for mental health  
14 treatment under the Mental Health Treatment Preference  
15 Declaration Act and to obtain copies of these instruments  
16 if they exist. If either of the above-named instruments is  
17 available to the petitioner, the instrument or a copy of  
18 the instrument shall be attached to the petition as an  
19 exhibit. The petitioner shall deliver a copy of the  
20 petition, and notice of the time and place of the hearing,  
21 to the respondent, his or her attorney, any known agent or  
22 attorney-in-fact, if any, and the guardian, if any, no  
23 later than 3 days prior to the date of the hearing. Service  
24 of the petition and notice of the time and place of the  
25 hearing may be made by transmitting them via facsimile  
26 machine to the respondent or other party. Upon receipt of  
27 the petition and notice, the party served, or the person  
28 delivering the petition and notice to the party served,  
29 shall acknowledge service. If the party sending the  
30 petition and notice does not receive acknowledgement of  
31 service within 24 hours, service must be made by personal  
32 service.

33 The petition may include a request that the court  
34 authorize such testing and procedures as may be essential

1 for the safe and effective administration of the authorized  
2 involuntary treatment sought to be administered, but only  
3 where the petition sets forth the specific testing and  
4 procedures sought to be administered.

5 If a hearing is requested to be held immediately  
6 following the hearing on a petition for involuntary  
7 admission, then the notice requirement shall be the same as  
8 that for the hearing on the petition for involuntary  
9 admission, and the petition filed pursuant to this Section  
10 shall be filed with the petition for involuntary admission.

11 (2) The court shall hold a hearing within 7 days of the  
12 filing of the petition. The People, the petitioner, or the  
13 respondent shall be entitled to a continuance of up to 7  
14 days as of right. An additional continuance of not more  
15 than 7 days may be granted to any party (i) upon a showing  
16 that the continuance is needed in order to adequately  
17 prepare for or present evidence in a hearing under this  
18 Section or (ii) under exceptional circumstances. The court  
19 may grant an additional continuance not to exceed 21 days  
20 when, in its discretion, the court determines that such a  
21 continuance is necessary in order to provide the recipient  
22 with an examination pursuant to Section 3-803 or 3-804 of  
23 this Act, to provide the recipient with a trial by jury as  
24 provided in Section 3-802 of this Act, or to arrange for  
25 the substitution of counsel as provided for by the Illinois  
26 Supreme Court Rules. The hearing shall be separate from a  
27 judicial proceeding held to determine whether a person is  
28 subject to involuntary admission but may be heard  
29 immediately preceding or following such a judicial  
30 proceeding and may be heard by the same trier of fact or  
31 law as in that judicial proceeding.

32 (3) Unless otherwise provided herein, the procedures  
33 set forth in Article VIII of Chapter 3 of this Act,  
34 including the provisions regarding appointment of counsel,

1 shall govern hearings held under this subsection (a-5).

2 (4) Authorized involuntary treatment shall not be  
3 administered to the recipient unless it has been determined  
4 by clear and convincing evidence that all of the following  
5 factors are present. In determining whether a person meets  
6 the criteria specified in the following paragraphs (A)  
7 through (G), the court may consider evidence of the  
8 person's history of serious violence, repeated past  
9 pattern of specific behavior, actions related to the  
10 person's illness, or past outcomes of various treatment  
11 options.+

12 (A) That the recipient has a serious mental illness  
13 or developmental disability.

14 (B) That because of said mental illness or  
15 developmental disability, the recipient currently  
16 exhibits any one of the following: (i) deterioration of  
17 his or her ability to function, as compared to the  
18 recipient's ability to function prior to the current  
19 onset of symptoms of the mental illness or disability  
20 for which treatment is presently sought, (ii)  
21 suffering, or (iii) threatening behavior.

22 (C) That the illness or disability has existed for  
23 a period marked by the continuing presence of the  
24 symptoms set forth in item (B) of this subdivision (4)  
25 or the repeated episodic occurrence of these symptoms.

26 (D) That the benefits of the treatment outweigh the  
27 harm.

28 (E) That the recipient lacks the capacity to make a  
29 reasoned decision about the treatment.

30 (F) That other less restrictive services have been  
31 explored and found inappropriate.

32 (G) If the petition seeks authorization for  
33 testing and other procedures, that such testing and  
34 procedures are essential for the safe and effective

1 administration of the treatment.

2 (5) In no event shall an order issued under this  
3 Section be effective for more than 90 days. A second 90-day  
4 period of involuntary treatment may be authorized pursuant  
5 to a hearing that complies with the standards and  
6 procedures of this subsection (a-5). Thereafter,  
7 additional 180-day periods of involuntary treatment may be  
8 authorized pursuant to the standards and procedures of this  
9 Section without limit. If a new petition to authorize the  
10 administration of authorized involuntary treatment is  
11 filed at least 15 days prior to the expiration of the prior  
12 order, and if any continuance of the hearing is agreed to  
13 by the recipient, the administration of the treatment may  
14 continue in accordance with the prior order pending the  
15 completion of a hearing under this Section.

16 (6) An order issued under this subsection (a-5) shall  
17 designate the persons authorized to administer the  
18 authorized involuntary treatment under the standards and  
19 procedures of this subsection (a-5). Those persons shall  
20 have complete discretion not to administer any treatment  
21 authorized under this Section. The order shall also specify  
22 the medications and the anticipated range of dosages that  
23 have been authorized and may include a list of any  
24 alternative medications and range of dosages deemed  
25 necessary.

26 (b) A guardian may be authorized to consent to the  
27 administration of authorized involuntary treatment to an  
28 objecting recipient only under the standards and procedures of  
29 subsection (a-5).

30 (c) Notwithstanding any other provision of this Section, a  
31 guardian may consent to the administration of authorized  
32 involuntary treatment to a non-objecting recipient under  
33 Article XIa of the Probate Act of 1975.

34 (d) Nothing in this Section shall prevent the

1 administration of authorized involuntary treatment to  
2 recipients in an emergency under Section 2-107 of this Act.

3 (e) Notwithstanding any of the provisions of this Section,  
4 authorized involuntary treatment may be administered pursuant  
5 to a power of attorney for health care under the Powers of  
6 Attorney for Health Care Law or a declaration for mental health  
7 treatment under the Mental Health Treatment Preference  
8 Declaration Act.

9 (f) The Department shall conduct annual trainings for  
10 clinical personnel on the appropriate use of authorized  
11 involuntary treatment, standards for its use, and the  
12 preparation of court petitions under this Section.

13 (Source: P.A. 92-16, eff. 6-28-01; 93-573, eff. 8-21-03.)

14 (405 ILCS 5/2-107.3 new)

15 Sec. 2-107.3. Reports. Each facility director of a  
16 State-operated mental health facility shall prepare a  
17 quarterly report stating the number of persons who were  
18 determined to meet the standard for authorized involuntary  
19 treatment but for whom it was determined that the filing of  
20 such a petition was not warranted as provided for in subsection  
21 (h) of Section 2-107 of this Code and the reasons for each such  
22 determination. The Department shall prepare and publish an  
23 annual report summarizing the information received under this  
24 Section. The Department's report shall include the data from  
25 each facility filing such a report and shall separately report  
26 the data from each such facility, identified by facility.

27 (405 ILCS 5/3-209) (from Ch. 91 1/2, par. 3-209)

28 Sec. 3-209. Within three days of admission under this  
29 Chapter, a treatment plan shall be prepared for each recipient  
30 of service and entered into his or her record. The plan shall  
31 include an assessment of the recipient's treatment needs, a  
32 description of the services recommended for treatment, the



1 goals of each type of element of service, an anticipated  
2 timetable for the accomplishment of the goals, and a  
3 designation of the qualified professional responsible for the  
4 implementation of the plan. The plan shall include a written  
5 assessment of whether or not the recipient is in need of  
6 psychotropic medications. The plan shall be reviewed and  
7 updated as the clinical condition warrants, but not less than  
8 every 30 days.

9 (Source: P.A. 81-920.)

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.".