



Rep. Lou Lang

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09500HB2424ham001

LRB095 00958 AJ0 51526 a

1 AMENDMENT TO HOUSE BILL 2424

2 AMENDMENT NO. _____. Amend House Bill 2424 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 changing
6 Section 12 as follows:

7 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

8 (Text of Section after amendment by P.A. 95-564)

9 Sec. 12. (a) If the United States Secret Service or the
10 Department of State Police requests information from a mental
11 health or developmental disability facility, as defined in
12 Section 1-107 and 1-114 of the Mental Health and Developmental
13 Disabilities Code, relating to a specific recipient and the
14 facility director determines that disclosure of such
15 information may be necessary to protect the life of, or to
16 prevent the infliction of great bodily harm to, a public

1 official, or a person under the protection of the United States
2 Secret Service, only the following information may be
3 disclosed: the recipient's name, address, and age and the date
4 of any admission to or discharge from a facility; and any
5 information which would indicate whether or not the recipient
6 has a history of violence or presents a danger of violence to
7 the person under protection. Any information so disclosed shall
8 be used for investigative purposes only and shall not be
9 publicly disseminated. Any person participating in good faith
10 in the disclosure of such information in accordance with this
11 provision shall have immunity from any liability, civil,
12 criminal or otherwise, if such information is disclosed relying
13 upon the representation of an officer of the United States
14 Secret Service or the Department of State Police that a person
15 is under the protection of the United States Secret Service or
16 is a public official.

17 For the purpose of this subsection (a), the term "public
18 official" means the Governor, Lieutenant Governor, Attorney
19 General, Secretary of State, State Comptroller, State
20 Treasurer, ~~or~~ member of the General Assembly, and any Supreme,
21 Appellate, Circuit, or Associate Judge of the State of
22 Illinois. The term shall also include the spouse, child or
23 children of a public official.

24 (b) The Department of Human Services (acting as successor
25 to the Department of Mental Health and Developmental
26 Disabilities) and all public or private hospitals and mental

1 health facilities are required, as hereafter described in this
2 subsection, to furnish the Department of State Police only such
3 information as may be required for the sole purpose of
4 determining whether an individual who may be or may have been a
5 patient is disqualified because of that status from receiving
6 or retaining a Firearm Owner's Identification Card under
7 subsection (e) or (f) of Section 8 of the Firearm Owners
8 Identification Card Act or 18 U.S.C. 922(g) and (n). All public
9 or private hospitals and mental health facilities shall, in the
10 form and manner required by the Department, provide such
11 information as shall be necessary for the Department to comply
12 with the reporting requirements to the Department of State
13 Police. Such information shall be furnished within 7 days after
14 admission to a public or private hospital or mental health
15 facility or the provision of services to a patient described in
16 clause (2) of this subsection (b). Any such information
17 disclosed under this subsection shall remain privileged and
18 confidential, and shall not be redisclosed, except as required
19 by clause (e)(2) of Section 3.1 of the Firearm Owners
20 Identification Card Act, nor utilized for any other purpose.
21 The method of requiring the providing of such information shall
22 guarantee that no information is released beyond what is
23 necessary for this purpose. In addition, the information
24 disclosed shall be provided by the Department within the time
25 period established by Section 24-3 of the Criminal Code of 1961
26 regarding the delivery of firearms. The method used shall be

1 sufficient to provide the necessary information within the
2 prescribed time period, which may include periodically
3 providing lists to the Department of Human Services or any
4 public or private hospital or mental health facility of Firearm
5 Owner's Identification Card applicants on which the Department
6 or hospital shall indicate the identities of those individuals
7 who are to its knowledge disqualified from having a Firearm
8 Owner's Identification Card for reasons described herein. The
9 Department may provide for a centralized source of information
10 for the State on this subject under its jurisdiction.

11 Any person, institution, or agency, under this Act,
12 participating in good faith in the reporting or disclosure of
13 records and communications otherwise in accordance with this
14 provision or with rules, regulations or guidelines issued by
15 the Department shall have immunity from any liability, civil,
16 criminal or otherwise, that might result by reason of the
17 action. For the purpose of any proceeding, civil or criminal,
18 arising out of a report or disclosure in accordance with this
19 provision, the good faith of any person, institution, or agency
20 so reporting or disclosing shall be presumed. The full extent
21 of the immunity provided in this subsection (b) shall apply to
22 any person, institution or agency that fails to make a report
23 or disclosure in the good faith belief that the report or
24 disclosure would violate federal regulations governing the
25 confidentiality of alcohol and drug abuse patient records
26 implementing 42 U.S.C. 290dd-3 and 290ee-3.

1 For purposes of this subsection (b) only, the following
2 terms shall have the meaning prescribed:

3 (1) "Hospital" means only that type of institution
4 which is providing full-time residential facilities and
5 treatment.

6 (2) "Patient" shall include only: (i) a person who is
7 an in-patient or resident of any public or private hospital
8 or mental health facility or (ii) a person who is an
9 out-patient or provided services by a public or private
10 hospital or mental health facility whose mental condition
11 is of such a nature that it is manifested by violent,
12 suicidal, threatening, or assaultive behavior or reported
13 behavior, for which there is a reasonable belief by a
14 physician, clinical psychologist, or qualified examiner
15 that the condition poses a clear and present or imminent
16 danger to the patient, any other person or the community
17 meaning the patient's condition poses a clear and present
18 danger in accordance with subsection (f) of Section 8 of
19 the Firearm Owners Identification Card Act. The terms
20 physician, clinical psychologist, and qualified examiner
21 are defined in Sections 1-120, 1-103, and 1-122 of the
22 Mental Health and Developmental Disabilities Code.

23 (3) "Mental health facility" is defined by Section
24 1-114 of the Mental Health and Developmental Disabilities
25 Code.

26 (c) Upon the request of a peace officer who takes a person

1 into custody and transports such person to a mental health or
2 developmental disability facility pursuant to Section 3-606 or
3 4-404 of the Mental Health and Developmental Disabilities Code
4 or who transports a person from such facility, a facility
5 director shall furnish said peace officer the name, address,
6 age and name of the nearest relative of the person transported
7 to or from the mental health or developmental disability
8 facility. In no case shall the facility director disclose to
9 the peace officer any information relating to the diagnosis,
10 treatment or evaluation of the person's mental or physical
11 health.

12 For the purposes of this subsection (c), the terms "mental
13 health or developmental disability facility", "peace officer"
14 and "facility director" shall have the meanings ascribed to
15 them in the Mental Health and Developmental Disabilities Code.

16 (d) Upon the request of a peace officer or prosecuting
17 authority who is conducting a bona fide investigation of a
18 criminal offense, or attempting to apprehend a fugitive from
19 justice, a facility director may disclose whether a person is
20 present at the facility. Upon request of a peace officer or
21 prosecuting authority who has a valid forcible felony warrant
22 issued, a facility director shall disclose: (1) whether the
23 person who is the subject of the warrant is present at the
24 facility and (2) the date of that person's discharge or future
25 discharge from the facility. The requesting peace officer or
26 prosecuting authority must furnish a case number and the

1 purpose of the investigation or an outstanding arrest warrant
2 at the time of the request. Any person, institution, or agency
3 participating in good faith in disclosing such information in
4 accordance with this subsection (d) is immune from any
5 liability, civil, criminal or otherwise, that might result by
6 reason of the action.

7 (Source: P.A. 95-564, eff. 6-1-08.)".

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