



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3981

Introduced 2/26/2009, by Rep. David R. Leitch

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Mental Health and Developmental Disabilities Code and the Mental Health and Developmental Disabilities Confidentiality Act. Changes the definition of "dangerous conduct" to mean threatening behavior or conduct that places another individual or the person engaging in the behavior or conduct (rather than places another individual) in reasonable expectation of being harmed, or a person's inability to provide, without the assistance of family or outside help, for his or her basic physical needs so as to guard himself or herself from serious harm. Extends the lists of possible medical practitioners who must examine a person subject to an involuntary admission petition and execute a certificate stating whether involuntary admission and immediate hospitalization is appropriate, to include a psychiatrist (rather than a physician, qualified examiner, or clinical psychologist only). Contains provisions regarding the amount of time a mental health facility can temporarily detain a person for examination; the situations under which a person can be released from a mental health facility following the initial examination period and the court filing of a certificate stating whether involuntary admission and immediate hospitalization is appropriate; additional persons who are entitled to inspect and copy an admitted person's mental health records; additional agencies that may disclose a person's mental health records and communications to other agencies; and other matters. Effective immediately.

LRB096 08707 KTG 18838 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning 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 Sections 1-104.5,  
6 3-602, 3-603, 3-607, 3-610, 3-702, and 3-703 as follows:

7 (405 ILCS 5/1-104.5)

8 Sec. 1-104.5. "Dangerous conduct" means threatening  
9 behavior or conduct that places another individual or the  
10 person engaging in the behavior or conduct, in reasonable  
11 expectation of being harmed, or a person's inability to  
12 provide, without the assistance of family or outside help, for  
13 his or her basic physical needs so as to guard himself or  
14 herself from serious harm.

15 (Source: P.A. 95-602, eff. 6-1-08.)

16 (405 ILCS 5/3-602) (from Ch. 91 1/2, par. 3-602)

17 Sec. 3-602. The petition shall be accompanied by a  
18 certificate executed by a physician, qualified examiner,  
19 psychiatrist, or clinical psychologist which states that the  
20 respondent is subject to involuntary admission and requires  
21 immediate hospitalization. The certificate shall indicate that  
22 the physician, qualified examiner, psychiatrist, or clinical

1 psychologist personally examined the respondent not more than  
2 72 hours prior to admission. It shall also contain the  
3 physician's, qualified examiner's, psychiatrist, or clinical  
4 psychologist's clinical observations, other factual  
5 information relied upon in reaching a diagnosis, and a  
6 statement as to whether the respondent was advised of his  
7 rights under Section 3-208.

8 (Source: P.A. 80-1414.)

9 (405 ILCS 5/3-603) (from Ch. 91 1/2, par. 3-603)

10 Sec. 3-603. (a) If no physician, qualified examiner,  
11 psychiatrist, or clinical psychologist is immediately  
12 available or it is not possible after a diligent effort to  
13 obtain the certificate provided for in Section 3-602, the  
14 respondent may be detained for examination in a mental health  
15 facility upon presentation of the petition alone pending the  
16 obtaining of such a certificate.

17 (b) In such instance the petition shall conform to the  
18 requirements of Section 3-601 and further specify that:

19 1. the petitioner believes, as a result of his personal  
20 observation, that the respondent is subject to involuntary  
21 admission;

22 2. a diligent effort was made to obtain a certificate;

23 3. no physician, qualified examiner, psychiatrist, or  
24 clinical psychologist could be found who has examined or  
25 could examine the respondent; and

1           4. a diligent effort has been made to convince the  
2           respondent to appear voluntarily for examination by a  
3           physician, qualified examiner, psychiatrist, or clinical  
4           psychologist, unless the petitioner reasonably believes  
5           that effort would impose a risk of harm to the respondent  
6           or others.

7           (Source: P.A. 91-726, eff. 6-2-00; 91-837, eff. 6-16-00; 92-16,  
8           eff. 6-28-01.)

9           (405 ILCS 5/3-607) (from Ch. 91 1/2, par. 3-607)

10          Sec. 3-607. Court ordered temporary detention and  
11          examination. When, as a result of personal observation and  
12          testimony in open court, any court has reasonable grounds to  
13          believe that a person appearing before it is subject to  
14          involuntary admission and in need of immediate hospitalization  
15          to protect such person or others from physical harm, the court  
16          may enter an order for the temporary detention and examination  
17          of such person. The order shall set forth in detail the facts  
18          which are the basis for its conclusion. The court may order a  
19          peace officer to take the person into custody and transport him  
20          to a mental health facility. The person may be detained for  
21          examination for no more than 24 hours to determine whether or  
22          not she or he is subject to involuntary admission and in need  
23          of immediate hospitalization. If a petition and certificate, ~~as~~  
24          ~~provided in this Article,~~ are executed within the 24 hours, the  
25          person may be admitted provided that the certificate states

1 that the person is both subject to involuntary admission and in  
2 need of immediate hospitalization. If the certificate states  
3 that the person is subject to involuntary admission but not in  
4 need of immediate hospitalization, the person may remain in his  
5 or her place of residence pending a hearing on the petition  
6 unless he or she voluntarily agrees to inpatient treatment. ~~and~~  
7 the The provisions of this Article shall apply to all petitions  
8 and certificates executed pursuant to this Section. If no  
9 petition or certificate is executed, the person shall be  
10 released.

11 (Source: P.A. 91-726, eff. 6-2-00.)

12 (405 ILCS 5/3-610) (from Ch. 91 1/2, par. 3-610)

13 Sec. 3-610. As soon as possible but not later than 24  
14 hours, excluding Saturdays, Sundays and holidays, after  
15 admission of a respondent pursuant to this Article, the  
16 respondent shall be examined by a psychiatrist. The  
17 psychiatrist may be a member of the staff of the facility but  
18 shall not be the person who executed the first certificate. If  
19 a certificate has already been completed by a psychiatrist  
20 following the respondent's admission, the respondent shall be  
21 examined by another psychiatrist or by a physician, clinical  
22 psychologist, or qualified examiner. If, as a result of this  
23 second examination, a certificate is executed, the certificate  
24 shall be promptly filed with the court. If the certificate  
25 states that the respondent is subject to involuntary admission

1 but not in need of immediate hospitalization, the respondent  
2 may remain in his or her place of residence pending a hearing  
3 on the petition unless he or she voluntarily agrees to  
4 inpatient treatment. If the respondent is not examined or if  
5 the psychiatrist, physician, clinical psychologist, or  
6 qualified examiner does not execute a certificate pursuant to  
7 Section 3-602, the respondent shall be released forthwith.

8 (Source: P.A. 80-1414.)

9 (405 ILCS 5/3-702) (from Ch. 91 1/2, par. 3-702)

10 Sec. 3-702. (a) The petition may be accompanied by the  
11 certificate of a physician, qualified examiner, psychiatrist,  
12 or clinical psychologist which certifies that the respondent is  
13 subject to involuntary admission and which contains the other  
14 information specified in Section 3-602.

15 (b) Upon receipt of the petition either with or without a  
16 certificate, if the court finds the documents are in order, it  
17 may make such orders pursuant to Section 3-703 as are necessary  
18 to provide for examination of the respondent. If the petition  
19 is not accompanied by 2 certificates executed pursuant to  
20 Section 3-703, the court may order the respondent to present  
21 himself for examination at a time and place designated by the  
22 court. If the petition is accompanied by 2 certificates  
23 executed pursuant to Section 3-703 and the court finds the  
24 documents are in order, it shall set the matter for hearing.

25 (Source: P.A. 91-726, eff. 6-2-00.)

1 (405 ILCS 5/3-703) (from Ch. 91 1/2, par. 3-703)

2 Sec. 3-703. If no certificate was filed, the respondent  
3 shall be examined separately by a physician, or clinical  
4 psychologist, or qualified examiner and by a psychiatrist. If a  
5 certificate executed by a psychiatrist was filed, the  
6 respondent shall be examined by a physician, clinical  
7 psychologist, qualified examiner, or psychiatrist. If a  
8 certificate executed by a qualified examiner, clinical  
9 psychologist, or a physician who is not a psychiatrist was  
10 filed, the respondent shall be examined by a psychiatrist. The  
11 examining physician, clinical psychologist, qualified examiner  
12 or psychiatrist may interview by telephone or in person any  
13 witnesses or other persons listed in the petition for  
14 involuntary admission. If, as a result of an examination, a  
15 certificate is executed, the certificate shall be promptly  
16 filed with the court. If a certificate is executed, the  
17 examining physician, clinical psychologist, qualified examiner  
18 or psychiatrist may also submit for filing with the court a  
19 report in which his findings are described in detail, and may  
20 rely upon such findings for his opinion that the respondent is  
21 subject to involuntary admission. Copies of the certificates  
22 shall be made available to the attorneys for the parties upon  
23 request prior to the hearing. A certificate prepared in  
24 compliance with this Article shall state whether or not the  
25 respondent is in need of immediate hospitalization. However, if

1 both the certificates state that the respondent is not in need  
2 of immediate hospitalization, the respondent may remain in his  
3 or her place of residence pending a hearing on the petition  
4 unless he or she voluntarily agrees to inpatient treatment.

5 (Source: P.A. 85-558.)

6 Section 10. The Mental Health and Developmental  
7 Disabilities Confidentiality Act is amended by changing  
8 Sections 4, 9.2, and 10 as follows:

9 (740 ILCS 110/4) (from Ch. 91 1/2, par. 804)

10 Sec. 4. (a) The following persons shall be entitled, upon  
11 request, to inspect and copy a recipient's record or any part  
12 thereof:

13 (1) the parent or guardian of a recipient who is under  
14 12 years of age;

15 (2) the recipient if he is 12 years of age or older;

16 (3) the parent or guardian of a recipient who is at  
17 least 12 but under 18 years, if the recipient is informed  
18 and does not object or if the therapist does not find that  
19 there are compelling reasons for denying the access. The  
20 parent or guardian who is denied access by either the  
21 recipient or the therapist may petition a court for access  
22 to the record. Nothing in this paragraph is intended to  
23 prohibit the parent or guardian of a recipient who is at  
24 least 12 but under 18 years from requesting and receiving



1 the following information: current physical and mental  
2 condition, diagnosis, treatment needs, services provided,  
3 and services needed, including medication, if any;

4 (4) the guardian of a recipient who is 18 years or  
5 older;

6 (5) an attorney or guardian ad litem who represents a  
7 minor 12 years of age or older in any judicial or  
8 administrative proceeding, provided that the court or  
9 administrative hearing officer has entered an order  
10 granting the attorney this right; or

11 (6) an agent appointed under a recipient's power of  
12 attorney for health care or for property, when the power of  
13 attorney authorizes the access.

14 (7) an attorney-in-fact appointed under the Mental  
15 Health Treatment Preference Declaration Act; or

16 (8) any person in whose care and custody the recipient  
17 has been placed pursuant to Section 3-811 of the Mental  
18 Health and Developmental Disabilities Code.

19 (b) Assistance in interpreting the record may be provided  
20 without charge and shall be provided if the person inspecting  
21 the record is under 18 years of age. However, access may in no  
22 way be denied or limited if the person inspecting the record  
23 refuses the assistance. A reasonable fee may be charged for  
24 duplication of a record. However, when requested to do so in  
25 writing by any indigent recipient, the custodian of the records  
26 shall provide at no charge to the recipient, or to the

1 Guardianship and Advocacy Commission, the agency designated by  
2 the Governor under Section 1 of the Protection and Advocacy for  
3 Developmentally Disabled Persons Act or to any other  
4 not-for-profit agency whose primary purpose is to provide free  
5 legal services or advocacy for the indigent and who has  
6 received written authorization from the recipient under  
7 Section 5 of this Act to receive his records, one copy of any  
8 records in its possession whose disclosure is authorized under  
9 this Act.

10 (c) Any person entitled to access to a record under this  
11 Section may submit a written statement concerning any disputed  
12 or new information, which statement shall be entered into the  
13 record. Whenever any disputed part of a record is disclosed,  
14 any submitted statement relating thereto shall accompany the  
15 disclosed part. Additionally, any person entitled to access may  
16 request modification of any part of the record which he  
17 believes is incorrect or misleading. If the request is refused,  
18 the person may seek a court order to compel modification.

19 (d) Whenever access or modification is requested, the  
20 request and any action taken thereon shall be noted in the  
21 recipient's record.

22 (Source: P.A. 88-484; 89-439, eff. 6-1-96.)

23 (740 ILCS 110/9.2)

24 Sec. 9.2. Interagency disclosure of recipient information.  
25 For the purposes of continuity of care, the Department of Human

1 Services (as successor to the Department of Mental Health and  
2 Developmental Disabilities), community agencies funded by the  
3 Department of Human Services in that capacity, licensed private  
4 hospitals receiving payments from the Department of Human  
5 Services or the Department of Healthcare and Family Services,  
6 State correctional facilities ~~prisons operated by the~~  
7 ~~Department of Corrections~~, mental health facilities operated  
8 by a county, and jails operated by any county of this State may  
9 disclose a recipient's record or communications, without  
10 consent, to each other, but only for the purpose of admission,  
11 treatment, planning, or discharge. Entities shall not  
12 redisclose any personally identifiable information, unless  
13 necessary for admission, treatment, planning, or discharge of  
14 the identified recipient to another setting. No records or  
15 communications may be disclosed to a county jail or State  
16 correctional facility ~~prison~~ pursuant to this Section unless  
17 the Department has entered into a written agreement with the  
18 county jail or State correctional facility ~~prison~~ requiring  
19 that the county jail or State correctional facilities ~~prison~~  
20 adopt written policies and procedures designed to ensure that  
21 the records and communications are disclosed only to those  
22 persons employed by or under contract to the county jail or  
23 State correctional facility ~~prison~~ who are involved in the  
24 provision of mental health services to inmates and that the  
25 records and communications are protected from further  
26 disclosure.

1 (Source: P.A. 94-182, eff. 7-12-05.)

2 (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

3 Sec. 10. (a) Except as provided herein, in any civil,  
4 criminal, administrative, or legislative proceeding, or in any  
5 proceeding preliminary thereto, a recipient, and a therapist on  
6 behalf and in the interest of a recipient, has the privilege to  
7 refuse to disclose and to prevent the disclosure of the  
8 recipient's record or communications.

9 (1) Records and communications may be disclosed in a  
10 civil, criminal or administrative proceeding in which the  
11 recipient introduces his mental condition or any aspect of  
12 his services received for such condition as an element of  
13 his claim or defense, if and only to the extent the court  
14 in which the proceedings have been brought, or, in the case  
15 of an administrative proceeding, the court to which an  
16 appeal or other action for review of an administrative  
17 determination may be taken, finds, after in camera  
18 examination of testimony or other evidence, that it is  
19 relevant, probative, not unduly prejudicial or  
20 inflammatory, and otherwise clearly admissible; that other  
21 satisfactory evidence is demonstrably unsatisfactory as  
22 evidence of the facts sought to be established by such  
23 evidence; and that disclosure is more important to the  
24 interests of substantial justice than protection from  
25 injury to the therapist-recipient relationship or to the

1 recipient or other whom disclosure is likely to harm.  
2 Except in a criminal proceeding in which the recipient, who  
3 is accused in that proceeding, raises the defense of  
4 insanity, no record or communication between a therapist  
5 and a recipient shall be deemed relevant for purposes of  
6 this subsection, except the fact of treatment, the cost of  
7 services and the ultimate diagnosis unless the party  
8 seeking disclosure of the communication clearly  
9 establishes in the trial court a compelling need for its  
10 production. However, for purposes of this Act, in any  
11 action brought or defended under the Illinois Marriage and  
12 Dissolution of Marriage Act, or in any action in which pain  
13 and suffering is an element of the claim, mental condition  
14 shall not be deemed to be introduced merely by making such  
15 claim and shall be deemed to be introduced only if the  
16 recipient or a witness on his behalf first testifies  
17 concerning the record or communication.

18 (2) Records or communications may be disclosed in a  
19 civil proceeding after the recipient's death when the  
20 recipient's physical or mental condition has been  
21 introduced as an element of a claim or defense by any party  
22 claiming or defending through or as a beneficiary of the  
23 recipient, provided the court finds, after in camera  
24 examination of the evidence, that it is relevant,  
25 probative, and otherwise clearly admissible; that other  
26 satisfactory evidence is not available regarding the facts

1 sought to be established by such evidence; and that  
2 disclosure is more important to the interests of  
3 substantial justice than protection from any injury which  
4 disclosure is likely to cause.

5 (3) In the event of a claim made or an action filed by  
6 a recipient, or, following the recipient's death, by any  
7 party claiming as a beneficiary of the recipient for injury  
8 caused in the course of providing services to such  
9 recipient, the therapist and other persons whose actions  
10 are alleged to have been the cause of injury may disclose  
11 pertinent records and communications to an attorney or  
12 attorneys engaged to render advice about and to provide  
13 representation in connection with such matter and to  
14 persons working under the supervision of such attorney or  
15 attorneys, and may testify as to such records or  
16 communication in any administrative, judicial or discovery  
17 proceeding for the purpose of preparing and presenting a  
18 defense against such claim or action.

19 (4) Records and communications made to or by a  
20 therapist in the course of examination ordered by a court  
21 for good cause shown may, if otherwise relevant and  
22 admissible, be disclosed in a civil, criminal, or  
23 administrative proceeding in which the recipient is a party  
24 or in appropriate pretrial proceedings, provided such  
25 court has found that the recipient has been as adequately  
26 and as effectively as possible informed before submitting

1 to such examination that such records and communications  
2 would not be considered confidential or privileged. Such  
3 records and communications shall be admissible only as to  
4 issues involving the recipient's physical or mental  
5 condition and only to the extent that these are germane to  
6 such proceedings.

7 (5) Records and communications may be disclosed in a  
8 proceeding under the Probate Act of 1975, to determine a  
9 recipient's competency or need for guardianship, provided  
10 that the disclosure is made only with respect to that  
11 issue.

12 (6) Records and communications may be disclosed when  
13 such are made during treatment which the recipient is  
14 ordered to undergo to render him fit to stand trial on a  
15 criminal charge, provided that the disclosure is made only  
16 with respect to the issue of fitness to stand trial.

17 (7) Records and communications of the recipient may be  
18 disclosed in any civil or administrative proceeding  
19 involving the validity of or benefits under a life,  
20 accident, health or disability insurance policy or  
21 certificate, or Health Care Service Plan Contract,  
22 insuring the recipient, but only if and to the extent that  
23 the recipient's mental condition, or treatment or services  
24 in connection therewith, is a material element of any claim  
25 or defense of any party, provided that information sought  
26 or disclosed shall not be redisclosed except in connection

1 with the proceeding in which disclosure is made.

2 (8) Records or communications may be disclosed when  
3 such are relevant to a matter in issue in any action  
4 brought under this Act and proceedings preliminary  
5 thereto, provided that any information so disclosed shall  
6 not be utilized for any other purpose nor be redisclosed  
7 except in connection with such action or preliminary  
8 proceedings.

9 (9) Records and communications of the recipient may be  
10 disclosed in investigations of and trials for homicide when  
11 the disclosure relates directly to the fact or immediate  
12 circumstances of the homicide.

13 (10) Records and communications of a deceased  
14 recipient may be disclosed to a coroner conducting a  
15 preliminary investigation into the recipient's death under  
16 Section 3-3013 of the Counties Code. However, records and  
17 communications of the deceased recipient disclosed in an  
18 investigation shall be limited solely to the deceased  
19 recipient's records and communications relating to the  
20 factual circumstances of the incident being investigated  
21 in a mental health facility.

22 (11) Records and communications of a recipient shall be  
23 disclosed in a proceeding where a petition or motion is  
24 filed under the Juvenile Court Act of 1987 and the  
25 recipient is named as a parent, guardian, or legal  
26 custodian of a minor who is the subject of a petition for



1 wardship as described in Section 2-3 of that Act or a minor  
2 who is the subject of a petition for wardship as described  
3 in Section 2-4 of that Act alleging the minor is abused,  
4 neglected, or dependent or the recipient is named as a  
5 parent of a child who is the subject of a petition,  
6 supplemental petition, or motion to appoint a guardian with  
7 the power to consent to adoption under Section 2-29 of the  
8 Juvenile Court Act of 1987.

9 (12) Records and communications of a recipient may be  
10 disclosed when disclosure is necessary to collect sums or  
11 receive third party payment representing charges for  
12 mental health or developmental disabilities services  
13 provided by a therapist or agency to a recipient; however,  
14 disclosure shall be limited to information needed to pursue  
15 collection, and the information so disclosed may not be  
16 used for any other purposes nor may it be redisclosed  
17 except in connection with collection activities. Whenever  
18 records are disclosed pursuant to this subdivision (12),  
19 the recipient of the records shall be advised in writing  
20 that any person who discloses mental health records and  
21 communications in violation of this Act may be subject to  
22 civil liability pursuant to Section 15 of this Act or to  
23 criminal penalties pursuant to Section 16 of this Act or  
24 both.

25 (b) Before a disclosure is made under subsection (a), any  
26 party to the proceeding or any other interested person may

1 request an in camera review of the record or communications to  
2 be disclosed. The court or agency conducting the proceeding may  
3 hold an in camera review on its own motion. When, contrary to  
4 the express wish of the recipient, the therapist asserts a  
5 privilege on behalf and in the interest of a recipient, the  
6 court may require that the therapist, in an in camera hearing,  
7 establish that disclosure is not in the best interest of the  
8 recipient. The court or agency may prevent disclosure or limit  
9 disclosure to the extent that other admissible evidence is  
10 sufficient to establish the facts in issue. The court or agency  
11 may enter such orders as may be necessary in order to protect  
12 the confidentiality, privacy, and safety of the recipient or of  
13 other persons. Any order to disclose or to not disclose shall  
14 be considered a final order for purposes of appeal and shall be  
15 subject to interlocutory appeal.

16 (c) A recipient's records and communications may be  
17 disclosed to a duly authorized committee, commission or  
18 subcommittee of the General Assembly which possesses subpoena  
19 and hearing powers, upon a written request approved by a  
20 majority vote of the committee, commission or subcommittee  
21 members. The committee, commission or subcommittee may request  
22 records only for the purposes of investigating or studying  
23 possible violations of recipient rights. The request shall  
24 state the purpose for which disclosure is sought.

25 The facility shall notify the recipient, or his guardian,  
26 and therapist in writing of any disclosure request under this

1 subsection within 5 business days after such request. Such  
2 notification shall also inform the recipient, or guardian, and  
3 therapist of their right to object to the disclosure within 10  
4 business days after receipt of the notification and shall  
5 include the name, address and telephone number of the  
6 committee, commission or subcommittee member or staff person  
7 with whom an objection shall be filed. If no objection has been  
8 filed within 15 business days after the request for disclosure,  
9 the facility shall disclose the records and communications to  
10 the committee, commission or subcommittee. If an objection has  
11 been filed within 15 business days after the request for  
12 disclosure, the facility shall disclose the records and  
13 communications only after the committee, commission or  
14 subcommittee has permitted the recipient, guardian or  
15 therapist to present his objection in person before it and has  
16 renewed its request for disclosure by a majority vote of its  
17 members.

18 Disclosure under this subsection shall not occur until all  
19 personally identifiable data of the recipient and provider are  
20 removed from the records and communications. Disclosure under  
21 this subsection shall not occur in any public proceeding.

22 (d) No party to any proceeding described under paragraphs  
23 (1), (2), (3), (4), (7), or (8) of subsection (a) of this  
24 Section, nor his or her attorney, shall serve a subpoena  
25 seeking to obtain access to records or communications under  
26 this Act unless the subpoena is accompanied by a written order

1 issued by a judge, authorizing the disclosure of the records or  
2 the issuance of the subpoena. No such written order shall be  
3 issued without written notice of the motion to the recipient  
4 and the treatment provider. Prior to issuance of the order,  
5 each party or other person entitled to notice shall be  
6 permitted an opportunity to be heard pursuant to subsection (b)  
7 of this Section. No person shall comply with a subpoena for  
8 records or communications under this Act, unless the subpoena  
9 is accompanied by a written order authorizing the issuance of  
10 the subpoena or the disclosure of the records. Each subpoena  
11 duces tecum issued by a court or administrative agency or  
12 served on any person pursuant to this subsection (d) shall  
13 include the following language: "No person shall comply with a  
14 subpoena for mental health records or communications pursuant  
15 to Section 10 of the Mental Health and Developmental  
16 Disabilities Confidentiality Act, 740 ILCS 110/10, unless the  
17 subpoena is accompanied by a written order that authorizes the  
18 issuance of the subpoena and the disclosure of records or  
19 communications."

20 (e) When a person has been transported by a peace officer  
21 to a mental health facility, then upon the request of a peace  
22 officer, if the person is allowed to leave the mental health  
23 facility within 48 hours of arrival, excluding Saturdays,  
24 Sundays, and holidays, the facility director shall notify the  
25 local law enforcement authority prior to the release of the  
26 person. The local law enforcement authority may re-disclose the

1 information as necessary to alert the appropriate enforcement  
2 or prosecuting authority.

3 (f) A recipient's records and communications shall be  
4 disclosed to the Inspector General of the Department of Human  
5 Services within 10 business days of a request by the Inspector  
6 General (i) in the course of an investigation authorized by the  
7 Abused and Neglected Long Term Care Facility Residents  
8 Reporting Act and applicable rule or (ii) during the course of  
9 an assessment authorized by the Abuse of Adults with  
10 Disabilities Intervention Act and applicable rule. The request  
11 shall be in writing and signed by the Inspector General or his  
12 or her designee. The request shall state the purpose for which  
13 disclosure is sought. Any person who knowingly and willfully  
14 refuses to comply with such a request is guilty of a Class A  
15 misdemeanor.

16 (Source: P.A. 92-358, eff. 8-15-01; 92-708, eff. 7-19-02;  
17 93-751, eff. 7-15-04.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.

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