

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Mental Health and Developmental Disabilities Confidentiality Act is amended by changing Section 4 as follows:

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

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

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

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

(3) the parent or guardian of a recipient who is at least 12 but under 18 years, if the recipient is informed and does not object or if the therapist does not find that there are compelling reasons for denying the access. The parent or guardian who is denied access by either the recipient or the therapist may petition a court for access to the record. Nothing in this paragraph is intended to prohibit the parent or guardian of a recipient who is at least 12 but under 18 years from requesting and receiving the following information: current physical and mental

condition, diagnosis, treatment needs, services provided, and services needed, including medication, if any;

(3.5) the parent or guardian of a minor, regardless of the minor's age, if the minor is involved in special education services under Section 14-1.11 of the School Code, and only for the purpose of inspecting and copying a record of the specific mental health or developmental services that the parent or guardian consented to on the recipient's behalf for special education services; or the designated representative of a student over the age of 18 involved in special education services under Section 14-6.10 of the School Code ~~the personal representative under HIPAA, 45 CFR 164.502(g), of a recipient, regardless of the age of the recipient;~~

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

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

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

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

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

(b) Assistance in interpreting the record may be provided without charge and shall be provided if the person inspecting the record is under 18 years of age. However, access may in no way be denied or limited if the person inspecting the record refuses the assistance. A reasonable fee may be charged for duplication of a record. However, when requested to do so in writing by any indigent recipient, the custodian of the records shall provide at no charge to the recipient, or to the Guardianship and Advocacy Commission, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act or to any other not-for-profit agency whose primary purpose is to provide free legal services or advocacy for the indigent and who has received written authorization from the recipient under Section 5 of this Act to receive his records, one copy of any records in its possession whose disclosure is authorized under this Act.

(c) Any person entitled to access to a record under this Section may submit a written statement concerning any disputed or new information, which statement shall be entered into the record. Whenever any disputed part of a record is disclosed, any submitted statement relating thereto shall accompany the disclosed part. Additionally, any person entitled to access

may request modification of any part of the record which he believes is incorrect or misleading. If the request is refused, the person may seek a court order to compel modification.

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

(e) Nothing in this Section shall be construed to affect the protection of or access to records under the Illinois School Student Records Act or the federal Individuals with Disabilities Education Act.

(Source: P.A. 103-474, eff. 1-1-24.)