



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB3286

Introduced 2/18/2025, by Rep. Maurice A. West, II

SYNOPSIS AS INTRODUCED:

20 ILCS 301/30-5

410 ILCS 305/9

740 ILCS 110/7

from Ch. 111 1/2, par. 7309

from Ch. 91 1/2, par. 807

Amends the Substance Use Disorder Act. Provides that disclosure of nonexempt records protected under the Act may be disclosed for research activities under the Domestic Violence Fatality Review Act. Amends the AIDS Confidentiality Act and the Mental Health and Developmental Disabilities Confidentiality Act. Provides that staff and any designee of the Illinois Criminal Justice Information Authority, members of the Ad Hoc Statewide Domestic Violence Fatality Review Committee of the Illinois Criminal Justice Information Authority Board, and the regional domestic violence fatality review teams are entitled to receive, inspect, copy, and share HIV-related information of any person subject to a domestic violence fatality review as part of and in accordance with the provisions of the Domestic Violence Fatality Review Act. Provides that the information disclosed is subject to the confidentiality requirements of the Domestic Violence Fatality Review Act. Effective immediately.

LRB104 11199 JRC 21281 b

1 AN ACT concerning civil law.

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

4 Section 5. The Substance Use Disorder Act is amended by
5 changing Section 30-5 as follows:

6 (20 ILCS 301/30-5)

7 Sec. 30-5. Patients' rights established.

8 (a) For purposes of this Section, "patient" means any
9 person who is receiving or has received early intervention,
10 treatment, or other recovery support services under this Act
11 or any category of service licensed as "intervention" under
12 this Act.

13 (b) No patient shall be deprived of any rights, benefits,
14 or privileges guaranteed by law, the Constitution of the
15 United States of America, or the Constitution of the State of
16 Illinois solely because of his or her status as a patient.

17 (c) Persons who have substance use disorders who are also
18 suffering from medical conditions shall not be discriminated
19 against in admission or treatment by any hospital that
20 receives support in any form supported in whole or in part by
21 funds appropriated to any State department or agency.

22 (d) Every patient shall have impartial access to services
23 without regard to race, religion, sex, ethnicity, age, sexual

1 orientation, gender identity, marital status, or other
2 disability.

3 (e) Patients shall be permitted the free exercise of
4 religion.

5 (f) Every patient's personal dignity shall be recognized
6 in the provision of services, and a patient's personal privacy
7 shall be assured and protected within the constraints of his
8 or her individual treatment.

9 (g) Treatment services shall be provided in the least
10 restrictive environment possible.

11 (h) Each patient receiving treatment services shall be
12 provided an individual treatment plan, which shall be
13 periodically reviewed and updated as mandated by
14 administrative rule.

15 (i) Treatment shall be person-centered, meaning that every
16 patient shall be permitted to participate in the planning of
17 his or her total care and medical treatment to the extent that
18 his or her condition permits.

19 (j) A person shall not be denied treatment solely because
20 he or she has withdrawn from treatment against medical advice
21 on a prior occasion or had prior treatment episodes.

22 (k) The patient in residential treatment shall be
23 permitted visits by family and significant others, unless such
24 visits are clinically contraindicated.

25 (l) A patient in residential treatment shall be allowed to
26 conduct private telephone conversations with family and

1 friends unless clinically contraindicated.

2 (m) A patient in residential treatment shall be permitted
3 to send and receive mail without hindrance, unless clinically
4 contraindicated.

5 (n) A patient shall be permitted to manage his or her own
6 financial affairs unless the patient or the patient's
7 guardian, or if the patient is a minor, the patient's parent,
8 authorizes another competent person to do so.

9 (o) A patient shall be permitted to request the opinion of
10 a consultant at his or her own expense, or to request an
11 in-house review of a treatment plan, as provided in the
12 specific procedures of the provider. A treatment provider is
13 not liable for the negligence of any consultant.

14 (p) Unless otherwise prohibited by State or federal law,
15 every patient shall be permitted to obtain from his or her own
16 physician, the treatment provider, or the treatment provider's
17 consulting physician complete and current information
18 concerning the nature of care, procedures, and treatment that
19 he or she will receive.

20 (q) A patient shall be permitted to refuse to participate
21 in any experimental research or medical procedure without
22 compromising his or her access to other, non-experimental
23 services. Before a patient is placed in an experimental
24 research or medical procedure, the provider must first obtain
25 his or her informed written consent or otherwise comply with
26 the federal requirements regarding the protection of human

1 subjects contained in 45 CFR Part 46.

2 (r) All medical treatment and procedures shall be
3 administered as ordered by a physician and in accordance with
4 all Department rules.

5 (s) Every patient in treatment shall be permitted to
6 refuse medical treatment and to know the consequences of such
7 action. Such refusal by a patient shall free the treatment
8 licensee from the obligation to provide the treatment.

9 (t) Unless otherwise prohibited by State or federal law,
10 every patient, patient's guardian, or parent, if the patient
11 is a minor, shall be permitted to inspect and copy all clinical
12 and other records kept by the intervention or treatment
13 licensee or by his or her physician concerning his or her care
14 and maintenance. The licensee or physician may charge a
15 reasonable fee for the duplication of a record.

16 (u) No owner, licensee, administrator, employee, or agent
17 of a licensed intervention or treatment program shall abuse or
18 neglect a patient. It is the duty of any individual who becomes
19 aware of such abuse or neglect to report it to the Department
20 immediately.

21 (v) The licensee may refuse access to any person if the
22 actions of that person are or could be injurious to the health
23 and safety of a patient or the licensee, or if the person seeks
24 access for commercial purposes.

25 (w) All patients admitted to community-based treatment
26 facilities shall be considered voluntary treatment patients

1 and such patients shall not be contained within a locked
2 setting.

3 (x) Patients and their families or legal guardians shall
4 have the right to present complaints to the provider or the
5 Department concerning the quality of care provided to the
6 patient, without threat of discharge or reprisal in any form
7 or manner whatsoever. The complaint process and procedure
8 shall be adopted by the Department by rule. The treatment
9 provider shall have in place a mechanism for receiving and
10 responding to such complaints, and shall inform the patient
11 and the patient's family or legal guardian of this mechanism
12 and how to use it. The provider shall analyze any complaint
13 received and, when indicated, take appropriate corrective
14 action. Every patient and his or her family member or legal
15 guardian who makes a complaint shall receive a timely response
16 from the provider that substantively addresses the complaint.
17 The provider shall inform the patient and the patient's family
18 or legal guardian about other sources of assistance if the
19 provider has not resolved the complaint to the satisfaction of
20 the patient or the patient's family or legal guardian.

21 (y) A patient may refuse to perform labor at a program
22 unless such labor is a part of the patient's individual
23 treatment plan as documented in the patient's clinical record.

24 (z) A person who is in need of services may apply for
25 voluntary admission in the manner and with the rights provided
26 for under regulations promulgated by the Department. If a

1 person is refused admission, then staff, subject to rules
2 promulgated by the Department, shall refer the person to
3 another facility or to other appropriate services.

4 (aa) No patient shall be denied services based solely on
5 HIV status. Further, records and information governed by the
6 AIDS Confidentiality Act and the AIDS Confidentiality and
7 Testing Code (77 Ill. Adm. Code 697) shall be maintained in
8 accordance therewith.

9 (bb) Records of the identity, diagnosis, prognosis or
10 treatment of any patient maintained in connection with the
11 performance of any service or activity relating to substance
12 use disorder education, early intervention, intervention,
13 training, or treatment that is regulated, authorized, or
14 directly or indirectly assisted by any Department or agency of
15 this State or under any provision of this Act shall be
16 confidential and may be disclosed only in accordance with the
17 provisions of federal law and regulations concerning the
18 confidentiality of substance use disorder patient records as
19 contained in 42 U.S.C. Sections 290dd-2 and 42 CFR Part 2, or
20 any successor federal statute or regulation.

21 (1) The following are exempt from the confidentiality
22 protections set forth in 42 CFR Section 2.12(c):

23 (A) Veteran's Administration records.

24 (B) Information obtained by the Armed Forces.

25 (C) Information given to qualified service
26 organizations.

1 (D) Communications within a program or between a
2 program and an entity having direct administrative
3 control over that program.

4 (E) Information given to law enforcement personnel
5 investigating a patient's commission of a crime on the
6 program premises or against program personnel.

7 (F) Reports under State law of incidents of
8 suspected child abuse and neglect; however,
9 confidentiality restrictions continue to apply to the
10 records and any follow-up information for disclosure
11 and use in civil or criminal proceedings arising from
12 the report of suspected abuse or neglect.

13 (2) If the information is not exempt, a disclosure can
14 be made only under the following circumstances:

15 (A) With patient consent as set forth in 42 CFR
16 Sections 2.1(b)(1) and 2.31, and as consistent with
17 pertinent State law.

18 (B) For medical emergencies as set forth in 42 CFR
19 Sections 2.1(b)(2) and 2.51.

20 (C) For research activities as set forth in 42 CFR
21 Sections 2.1(b)(2) and 2.52 and the Domestic Violence
22 Fatality Review Act.

23 (D) For audit evaluation activities as set forth
24 in 42 CFR Section 2.53.

25 (E) With a court order as set forth in 42 CFR
26 Sections 2.61 through 2.67.

1 (3) The restrictions on disclosure and use of patient
2 information apply whether the holder of the information
3 already has it, has other means of obtaining it, is a law
4 enforcement or other official, has obtained a subpoena, or
5 asserts any other justification for a disclosure or use
6 that is not permitted by 42 CFR Part 2. Any court orders
7 authorizing disclosure of patient records under this Act
8 must comply with the procedures and criteria set forth in
9 42 CFR Sections 2.64 and 2.65. Except as authorized by a
10 court order granted under this Section, no record referred
11 to in this Section may be used to initiate or substantiate
12 any charges against a patient or to conduct any
13 investigation of a patient.

14 (4) The prohibitions of this subsection shall apply to
15 records concerning any person who has been a patient,
16 regardless of whether or when the person ceases to be a
17 patient.

18 (5) Any person who discloses the content of any record
19 referred to in this Section except as authorized shall,
20 upon conviction, be guilty of a Class A misdemeanor.

21 (6) The Department shall prescribe regulations to
22 carry out the purposes of this subsection. These
23 regulations may contain such definitions, and may provide
24 for such safeguards and procedures, including procedures
25 and criteria for the issuance and scope of court orders,
26 as in the judgment of the Department are necessary or

1 proper to effectuate the purposes of this Section, to
2 prevent circumvention or evasion thereof, or to facilitate
3 compliance therewith.

4 (cc) Each patient shall be given a written explanation of
5 all the rights enumerated in this Section and a copy, signed by
6 the patient, shall be kept in every patient record. If a
7 patient is unable to read such written explanation, it shall
8 be read to the patient in a language that the patient
9 understands. A copy of all the rights enumerated in this
10 Section shall be posted in a conspicuous place within the
11 program where it may readily be seen and read by program
12 patients and visitors.

13 (dd) The program shall ensure that its staff is familiar
14 with and observes the rights and responsibilities enumerated
15 in this Section.

16 (ee) Licensed organizations shall comply with the right of
17 any adolescent to consent to treatment without approval of the
18 parent or legal guardian in accordance with the Consent by
19 Minors to Health Care Services Act.

20 (ff) At the point of admission for services, licensed
21 organizations must obtain written informed consent, as defined
22 in Section 1-10 and in administrative rule, from each client,
23 patient, or legal guardian.

24 (Source: P.A. 102-813, eff. 5-13-22.)

25 Section 10. The AIDS Confidentiality Act is amended by

1 changing Section 9 as follows:

2 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

3 Sec. 9. (1) No person may disclose or be compelled to
4 disclose HIV-related information, except to the following
5 persons:

6 (a) The subject of an HIV test or the subject's
7 legally authorized representative. A physician may notify
8 the spouse or civil union partner of the test subject, if
9 the test result is positive and has been confirmed
10 pursuant to rules adopted by the Department, provided that
11 the physician has first sought unsuccessfully to persuade
12 the patient to notify the spouse or civil union partner or
13 that, a reasonable time after the patient has agreed to
14 make the notification, the physician has reason to believe
15 that the patient has not provided the notification. This
16 paragraph shall not create a duty or obligation under
17 which a physician must notify the spouse or civil union
18 partner of the test results, nor shall such duty or
19 obligation be implied. No civil liability or criminal
20 sanction under this Act shall be imposed for any
21 disclosure or non-disclosure of a test result to a spouse
22 or civil union partner by a physician acting in good faith
23 under this paragraph. For the purpose of any proceedings,
24 civil or criminal, the good faith of any physician acting
25 under this paragraph shall be presumed.

1 (b) Any person designated in a legally effective
2 authorization for release of the HIV-related information
3 executed by the subject of the HIV-related information or
4 the subject's legally authorized representative.

5 (c) An authorized agent or employee of a health
6 facility or health care provider if the health facility or
7 health care provider itself is authorized to obtain the
8 test results, the agent or employee provides patient care
9 or handles or processes specimens of body fluids or
10 tissues, and the agent or employee has a need to know such
11 information.

12 (d) The Department and local health authorities
13 serving a population of over 1,000,000 residents or other
14 local health authorities as designated by the Department,
15 in accordance with rules for reporting, preventing, and
16 controlling the spread of disease and the conduct of
17 public health surveillance, public health investigations,
18 and public health interventions, as otherwise provided by
19 State law. The Department, local health authorities, and
20 authorized representatives shall not disclose HIV test
21 results and HIV-related information, publicly or in any
22 action of any kind in any court or before any tribunal,
23 board, or agency. HIV test results and HIV-related
24 information shall be protected from disclosure in
25 accordance with the provisions of Sections 8-2101 through
26 8-2105 of the Code of Civil Procedure.

1 (e) A health facility, health care provider, or health
2 care professional which procures, processes, distributes
3 or uses: (i) a human body part from a deceased person with
4 respect to medical information regarding that person; or
5 (ii) semen provided prior to the effective date of this
6 Act for the purpose of artificial insemination.

7 (f) Health facility staff committees for the purposes
8 of conducting program monitoring, program evaluation or
9 service reviews.

10 (f-5) (Blank).

11 (g) (Blank).

12 (h) Any health care provider, health care
13 professional, or employee of a health facility, and any
14 firefighter or EMR, EMT, A-EMT, paramedic, PHRN, or EMT-I,
15 involved in an accidental direct skin or mucous membrane
16 contact with the blood or bodily fluids of an individual
17 which is of a nature that may transmit HIV, as determined
18 by a physician in his medical judgment.

19 (i) Any law enforcement officer, as defined in
20 subsection (c) of Section 7, involved in the line of duty
21 in a direct skin or mucous membrane contact with the blood
22 or bodily fluids of an individual which is of a nature that
23 may transmit HIV, as determined by a physician in his
24 medical judgment.

25 (j) A temporary caretaker of a child taken into
26 temporary protective custody by the Department of Children

1 and Family Services pursuant to Section 5 of the Abused
2 and Neglected Child Reporting Act, as now or hereafter
3 amended.

4 (k) In the case of a minor under 18 years of age whose
5 test result is positive and has been confirmed pursuant to
6 rules adopted by the Department, the health care
7 professional who ordered the test shall make a reasonable
8 effort to notify the minor's parent or legal guardian if,
9 in the professional judgment of the health care
10 professional, notification would be in the best interest
11 of the child and the health care professional has first
12 sought unsuccessfully to persuade the minor to notify the
13 parent or legal guardian or a reasonable time after the
14 minor has agreed to notify the parent or legal guardian,
15 the health care professional has reason to believe that
16 the minor has not made the notification. This subsection
17 shall not create a duty or obligation under which a health
18 care professional must notify the minor's parent or legal
19 guardian of the test results, nor shall a duty or
20 obligation be implied. No civil liability or criminal
21 sanction under this Act shall be imposed for any
22 notification or non-notification of a minor's test result
23 by a health care professional acting in good faith under
24 this subsection. For the purpose of any proceeding, civil
25 or criminal, the good faith of any health care
26 professional acting under this subsection shall be

1 presumed.

2 (1) Staff and any designee of the Illinois Criminal
3 Justice Information Authority, members of the Ad Hoc Statewide
4 Domestic Violence Fatality Review Committee of the Illinois
5 Criminal Justice Information Authority Board, and the regional
6 domestic violence fatality review teams shall be entitled to
7 receive, inspect, copy, and share HIV-related information of
8 any person subject to a domestic violence fatality review,
9 including, but not limited, a person who experienced or caused
10 a near-fatality or fatality related to domestic violence, for
11 the purposes of domestic violence fatality review and in
12 accordance with the responsibilities required and authorized
13 by the Domestic Violence Fatality Review Act. Information
14 disclosed under this Section is subject to the confidentiality
15 requirements of the Domestic Violence Fatality Review Act.

16 (2) All information and records held by a State agency,
17 local health authority, or health oversight agency pertaining
18 to HIV-related information shall be strictly confidential and
19 exempt from copying and inspection under the Freedom of
20 Information Act. The information and records shall not be
21 released or made public by the State agency, local health
22 authority, or health oversight agency, shall not be admissible
23 as evidence nor discoverable in any action of any kind in any
24 court or before any tribunal, board, agency, or person, and
25 shall be treated in the same manner as the information and
26 those records subject to the provisions of Part 21 of Article

1 VIII of the Code of Civil Procedure, except under the
2 following circumstances:

3 (A) when made with the written consent of all persons
4 to whom the information pertains; or

5 (B) when authorized by Section 5-4-3 of the Unified
6 Code of Corrections.

7 Disclosure shall be limited to those who have a need to
8 know the information, and no additional disclosures may be
9 made.

10 (Source: P.A. 102-168, eff. 7-27-21.)

11 Section 15. The Mental Health and Developmental
12 Disabilities Confidentiality Act is amended by changing
13 Section 7 as follows:

14 (740 ILCS 110/7) (from Ch. 91 1/2, par. 807)

15 Sec. 7. Review of therapist or agency; use of recipient's
16 record.

17 (a) When a therapist or agency which provides services is
18 being reviewed for purposes of licensure, statistical
19 compilation, research, evaluation, or other similar purpose, a
20 recipient's record may be used by the person conducting the
21 review to the extent that this is necessary to accomplish the
22 purpose of the review, provided that personally identifiable
23 data is removed from the record before use. Personally
24 identifiable data may be disclosed only in accordance with

1 Section 5 of this Act. Licensure and the like may not be
2 withheld or withdrawn for failure to disclose personally
3 identifiable data if consent is not obtained.

4 (b) When an agency which provides services is being
5 reviewed for purposes of funding, accreditation, reimbursement
6 or audit by a State or federal agency or accrediting body, a
7 recipient's record may be used by the person conducting the
8 review and personally identifiable information may be
9 disclosed without consent, provided that the personally
10 identifiable information is necessary to accomplish the
11 purpose of the review.

12 For the purpose of this subsection, an inspection
13 investigation or site visit by the United States Department of
14 Justice regarding compliance with a pending consent decree is
15 considered an audit by a federal agency.

16 (c) An independent team of experts under Brian's Law shall
17 be entitled to inspect and copy the records of any recipient
18 whose death is being examined by such a team pursuant to the
19 mortality review process authorized by Brian's Law.
20 Information disclosed under this subsection may not be
21 redisclosed without the written consent of one of the persons
22 identified in Section 4 of this Act.

23 (d) Staff and any designee of the Illinois Criminal
24 Justice Information Authority, members of the Ad Hoc Statewide
25 Domestic Violence Fatality Review Committee of the Illinois
26 Criminal Justice Information Authority Board, and the regional

1 domestic violence fatality review teams shall be entitled to
2 receive, inspect, copy, and share the records covered by this
3 Act of any recipient subject to a domestic violence fatality
4 review, including, but not limited to, a recipient who
5 experienced or caused a near-fatality or fatality related to
6 domestic violence, for the purposes of domestic violence
7 fatality review and in accordance with the responsibilities
8 required and authorized by the Domestic Violence Fatality
9 Review Act. Information disclosed under this section is
10 subject to the confidentiality requirements of the Domestic
11 Violence Fatality Review Act.

12 (Source: P.A. 98-378, eff. 8-16-13.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.