

1 AN ACT in relation to criminal law.

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

4 Section 3. The Mental Health and Developmental
5 Disabilities Code is amended by changing Section 2-107.1 as
6 follows:

7 (405 ILCS 5/2-107.1) (from Ch. 91 1/2, par. 2-107.1)

8 Sec. 2-107.1. Administration of authorized involuntary
9 treatment upon application to a court.

10 (a) An adult recipient of services and the recipient's
11 guardian, if the recipient is under guardianship, and the
12 substitute decision maker, if any, shall be informed of the
13 recipient's right to refuse medication. The recipient and the
14 recipient's guardian or substitute decision maker shall be
15 given the opportunity to refuse generally accepted mental
16 health or developmental disability services, including but
17 not limited to medication.

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

23 (1) Any person 18 years of age or older, including
24 any guardian, may petition the circuit court for an order
25 authorizing the administration of authorized involuntary
26 treatment to a recipient of services. The petition shall
27 state that the petitioner has made a good faith attempt
28 to determine whether the recipient has executed a power
29 of attorney for health care under the Powers of Attorney
30 for Health Care Law or a declaration for mental health
31 treatment under the Mental Health Treatment Preference

1 Declaration Act and to obtain copies of these instruments
2 if they exist. If either of the above-named instruments
3 is available to the petitioner, the instrument or a copy
4 of the instrument shall be attached to the petition as an
5 exhibit. The petitioner shall deliver a copy of the
6 petition, and notice of the time and place of the
7 hearing, to the respondent, his or her attorney, any
8 known agent or attorney-in-fact, if any, and the
9 guardian, if any, no later than 3 days prior to the date
10 of the hearing. Service of the petition and notice of the
11 time and place of the hearing may be made by transmitting
12 them via facsimile machine to the respondent or other
13 party. Upon receipt of the petition and notice, the
14 party served, or the person delivering the petition and
15 notice to the party served, shall acknowledge service.
16 If the party sending the petition and notice does not
17 receive acknowledgement of service within 24 hours,
18 service must be made by personal service.

19 ~~If the hearing is requested to be held immediately~~
20 ~~following the hearing on a petition for involuntary~~
21 ~~admission, then the notice requirement shall be the same~~
22 ~~as that for the hearing on the petition for involuntary~~
23 ~~admission, and the petition filed pursuant to this~~
24 ~~Section shall be filed with the petition for involuntary~~
25 admission. The petition may include a request that the
26 court authorize such testing and procedures as may be
27 essential for the safe and effective administration of
28 the authorized involuntary treatment sought to be
29 administered, but only where the petition sets forth the
30 specific testing and procedures sought to be
31 administered.

32 If a hearing is requested to be held immediately
33 following the hearing on a petition for involuntary
34 admission, then the notice requirement shall be the same

1 as that for the hearing on the petition for involuntary
2 admission, and the petition filed pursuant to this
3 Section shall be filed with the petition for involuntary
4 admission.

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

27 (3) Unless otherwise provided herein, the
28 procedures set forth in Article VIII of Chapter 3 of this
29 Act, including the provisions regarding appointment of
30 counsel, shall govern hearings held under this subsection
31 (a-5).

32 (4) Authorized involuntary treatment shall not be
33 administered to the recipient unless it has been
34 determined by clear and convincing evidence that all of

1 the following factors are present:

2 (A) That the recipient has a serious mental
3 illness or developmental disability.

4 (B) That because of said mental illness or
5 developmental disability, the recipient exhibits any
6 one of the following: (i) deterioration of his or
7 her ability to function, (ii) suffering, or (iii)
8 threatening behavior.

9 (C) That the illness or disability has existed
10 for a period marked by the continuing presence of
11 the symptoms set forth in item (B) of this
12 subdivision (4) or the repeated episodic occurrence
13 of these symptoms.

14 (D) That the benefits of the treatment
15 outweigh the harm.

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

18 (F) That other less restrictive services have
19 been explored and found inappropriate.

20 (G) If the petition seeks authorization for
21 testing and other procedures, that such testing and
22 procedures are essential for the safe and effective
23 administration of the treatment.

24 (5) In no event shall an order issued under this
25 Section be effective for more than 90 days. A second
26 90-day period of involuntary treatment may be authorized
27 pursuant to a hearing that complies with the standards
28 and procedures of this subsection (a-5). Thereafter,
29 additional 180-day periods of involuntary treatment may
30 be authorized pursuant to the standards and procedures of
31 this Section without limit. If a new petition to
32 authorize the administration of authorized involuntary
33 treatment is filed at least 15 days prior to the
34 expiration of the prior order, and if any continuance of

1 the hearing is agreed to by the recipient, the
2 administration of the treatment may continue in
3 accordance with the prior order pending the completion of
4 a hearing under this Section.

5 (6) An order issued under this subsection (a-5)
6 shall designate the persons authorized to administer the
7 authorized involuntary treatment under the standards and
8 procedures of this subsection (a-5). Those persons shall
9 have complete discretion not to administer any treatment
10 authorized under this Section. The order shall also
11 specify the medications and the anticipated range of
12 dosages that have been authorized.

13 (b) A guardian may be authorized to consent to the
14 administration of authorized involuntary treatment to an
15 objecting recipient only under the standards and procedures
16 of subsection (a-5).

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

21 (d) Nothing in this Section shall prevent the
22 administration of authorized involuntary treatment to
23 recipients in an emergency under Section 2-107 of this Act.

24 (e) Notwithstanding any of the provisions of this
25 Section, authorized involuntary treatment may be administered
26 pursuant to a power of attorney for health care under the
27 Powers of Attorney for Health Care Law or a declaration for
28 mental health treatment under the Mental Health Treatment
29 Preference Declaration Act.

30 (f) Whenever treatment is ordered under this Section for
31 a recipient who is confined in a county or municipal jail or
32 other pretrial detention facility awaiting trial on criminal
33 charges, the clerk of the court must send a copy of the order
34 for treatment to the counsel who represents the recipient in

1 the criminal proceeding.

2 (Source: P.A. 90-538, eff. 12-1-97; 91-726, eff. 6-2-00;
3 91-787, eff. 1-1-01; revised 6-28-00.)

4 Section 5. The Unified Code of Corrections is amended
5 by changing Section 3-15-3 and adding Section 3-15-4 as
6 follows:

7 (730 ILCS 5/3-15-3) (from Ch. 38, par. 1003-15-3)

8 Sec. 3-15-3. Persons with mental illness and
9 developmental disabilities.

10 (a) The Department must, may by rule, establish
11 standards and procedures for the provision of mental health
12 and developmental disability services to persons with mental
13 illness and persons with a developmental disability confined
14 in a local jail or juvenile detention facility as set forth
15 under Section 3-7-7 of this Code.

16 Those standards and procedures must address screening and
17 classification, the use of psychotropic medications, suicide
18 prevention, qualifications of staff, staffing levels, staff
19 training, discharge, linkage and aftercare, the
20 confidentiality of mental health records, and such other
21 issues as are necessary to ensure that inmates with mental
22 illness receive adequate and humane care and services.

23 (b) At least once each year, the Department must inspect
24 each local jail and juvenile detention facility for
25 compliance with the standards and procedures established. The
26 results of the inspection must be made available by the
27 Department for public inspection. If any jail or juvenile
28 detention facility does not comply with the standards and
29 procedures established, the Director of Corrections must give
30 notice to the county board and the sheriff of such
31 noncompliance, specifying the particular standards and
32 procedures that have not been met by the jail or juvenile

1 detention facility. If the jail or juvenile detention
 2 facility is not in compliance with the standards and
 3 procedures when 6 months have elapsed from the giving of such
 4 notice, the Director of Corrections may petition the
 5 appropriate court for an order requiring the jail or juvenile
 6 detention facility to comply with the standards and
 7 procedures established by the Department or for other
 8 appropriate relief.

9 (Source: P.A. 88-380.)

10 (730 ILCS 5/3-15-4 new)

11 Sec. 3-15-4. Task force on mental health services in
 12 municipal jails and lockups.

13 (a) The Department of Corrections shall convene a
 14 special task force to develop and propose model standards for
 15 the delivery of mental health services and the prevention of
 16 suicides in municipal jails and lockups. The task force
 17 shall be composed of no more than 22 members appointed by the
 18 Director of Corrections as follows:

19 (1) Not more than 8 members representing
 20 municipalities.

21 (2) Not more than 8 members representing community
 22 mental health service providers and State operated and
 23 private psychiatric hospitals, including no more than 3
 24 representatives of the Office of Mental Health,
 25 Department of Human Services.

26 (3) Three members of the general public, at least
 27 one of whom must be a primary consumer of mental health
 28 services.

29 (4) Not more than 3 representatives of the
 30 following groups: the National Commission on Correctional
 31 Health Care, the American Correctional Association, the
 32 Joint Commission on the Accreditation of Health Care
 33 Organizations, the American Association of Correctional

1 Psychology, the John Howard Association.

2 The Director of Corrections shall in appointing the task
3 force attempt to ensure that the membership on the task force
4 represents the geographic diversity of the State.

5 (b) The members of the task force shall serve without
6 compensation and may not receive reimbursement for any
7 expenses incurred in performing their duties as members of
8 the task force.

9 (c) The task force may, without limitation, (i)
10 determine what services and screening should be provided in
11 municipal pre-trial detention facilities and what training
12 and resources are necessary to provide those services and
13 (ii) recommend changes in the Department's standards for
14 municipal jails and lockups.

15 (d) Before the Department acts upon any recommendation
16 of the task force, the Department must hold a public hearing
17 to provide individuals with mental illnesses and their family
18 members, mental health advocacy organizations, and the public
19 to review, comment upon, and suggest any changes to the
20 proposed standards for municipal jails and lockups.

21 (e) The task force must submit its recommendations as to
22 any changes in the standards for municipal jails and lockups
23 to the General Assembly by January 15, 2002.

24 Section 99. Effective date. This Section and Section
25 3-15-4 of the Unified Code of Corrections take effect upon
26 becoming law.