

1 AN ACT in relation to mental 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 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.)