

1 AN ACT concerning mental health and developmental
2 disabilities confidentiality.

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

5 Section 5. The Mental Health and Developmental
6 Disabilities Confidentiality Act is amended by changing
7 Section 12 as follows:

8 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

9 Sec. 12. (a) If the United States Secret Service or the
10 Department of State Police requests information from a mental
11 health or developmental disability facility, as defined in
12 Section 1-107 and 1-114 of the Mental Health and
13 Developmental Disabilities Code, relating to a specific
14 recipient and the facility director determines that
15 disclosure of such information may be necessary to protect
16 the life of, or to prevent the infliction of great bodily
17 harm to, a public official, or a person under the protection
18 of the United States Secret Service, only the following
19 information may be disclosed: the recipient's name, address,
20 and age and the date of any admission to or discharge from a
21 facility; and any information which would indicate whether or
22 not the recipient has a history of violence or presents a
23 danger of violence to the person under protection. Any
24 information so disclosed shall be used for investigative
25 purposes only and shall not be publicly disseminated. Any
26 person participating in good faith in the disclosure of such
27 information in accordance with this provision shall have
28 immunity from any liability, civil, criminal or otherwise, if
29 such information is disclosed relying upon the representation
30 of an officer of the United States Secret Service or the
31 Department of State Police that a person is under the

1 protection of the United States Secret Service or is a public
2 official.

3 For the purpose of this subsection (a), the term "public
4 official" means the Governor, Lieutenant Governor, Attorney
5 General, Secretary of State, State Comptroller, State
6 Treasurer or member of the General Assembly. The term shall
7 also include the spouse, child or children of a public
8 official.

9 (b) The Department of Human Services (acting as
10 successor to the Department of Mental Health and
11 Developmental Disabilities) and all private hospitals are
12 required, as hereafter described in this subsection, to
13 furnish the Department of State Police only such information
14 as may be required for the sole purpose of determining
15 whether an individual who may be or may have been a patient
16 is disqualified because of that status from receiving or
17 retaining a Firearm Owner's Identification Card under
18 subsection (e) of Section 8 of the Firearm Owners
19 Identification Card Act. All private hospitals shall, in the
20 form and manner required by the Department, provide such
21 information as shall be necessary for the Department to
22 comply with the reporting requirements to the Department of
23 State Police. Such information shall be furnished within 30
24 days after admission to a private hospital. Any such
25 information disclosed under this subsection shall remain
26 privileged and confidential, and shall not be redisclosed nor
27 utilized for any other purpose. The method of requiring the
28 providing of such information shall guarantee that no
29 information is released beyond what is necessary for this
30 purpose. In addition, the information disclosed shall be
31 provided by the Department within the time period established
32 by Section 24-3 of the Criminal Code of 1961 regarding the
33 delivery of firearms. The method used shall be sufficient to
34 provide the necessary information within the prescribed time

1 period, which may include periodically providing lists to the
2 Department of Human Services or any private hospital of
3 Firearm Owner's Identification Card applicants on which the
4 Department or hospital shall indicate the identities of those
5 individuals who are to its knowledge disqualified from having
6 a Firearm Owner's Identification Card for reasons described
7 herein. The Department may provide for a centralized source
8 of information for the State on this subject under its
9 jurisdiction.

10 Any person, institution, or agency, under this Act,
11 participating in good faith in the reporting or disclosure of
12 records and communications otherwise in accordance with this
13 provision or with rules, regulations or guidelines issued by
14 the Department shall have immunity from any liability, civil,
15 criminal or otherwise, that might result by reason of the
16 action. For the purpose of any proceeding, civil or
17 criminal, arising out of a report or disclosure in accordance
18 with this provision, the good faith of any person,
19 institution, or agency so reporting or disclosing shall be
20 presumed. The full extent of the immunity provided in this
21 subsection (b) shall apply to any person, institution or
22 agency that fails to make a report or disclosure in the good
23 faith belief that the report or disclosure would violate
24 federal regulations governing the confidentiality of alcohol
25 and drug abuse patient records implementing 42 U.S.C. 290dd-3
26 and 290ee-3.

27 For purposes of this subsection (b) only, the following
28 terms shall have the meaning prescribed:

29 (1) "Hospital" means only that type of institution
30 which is providing full-time residential facilities and
31 treatment for in-patients and excludes institutions, such
32 as community clinics, which only provide treatment to
33 out-patients.

34 (2) "Patient" shall mean only a person who is an

1 in-patient or resident of any hospital, not an
2 out-patient or client seen solely for periodic
3 consultation.

4 (c) Upon the request of a peace officer who takes a
5 person into custody and transports such person to a mental
6 health or developmental disability facility pursuant to
7 Section 3-606 or 4-404 of the Mental Health and Developmental
8 Disabilities Code or who transports a person from such
9 facility, a facility director shall furnish said peace
10 officer the name, address, age and name of the nearest
11 relative of the person transported to or from the mental
12 health or developmental disability facility. In no case
13 shall the facility director disclose to the peace officer any
14 information relating to the diagnosis, treatment or
15 evaluation of the person's mental or physical health.

16 For the purposes of this subsection (c), the terms
17 "mental health or developmental disability facility", "peace
18 officer" and "facility director" shall have the meanings
19 ascribed to them in the Mental Health and Developmental
20 Disabilities Code.

21 (d) Upon the request of a peace officer or prosecuting
22 authority who is conducting a bona fide investigation of a
23 criminal offense, or attempting to apprehend a fugitive from
24 justice, a facility director may disclose whether a person is
25 present at the facility. Upon request of a peace officer or
26 prosecuting authority who has a valid forcible felony warrant
27 issued, a facility director shall disclose: (1) whether the
28 person who is the subject of the warrant is present at the
29 facility and (2) the date of that person's discharge or
30 future discharge from the facility. The requesting peace
31 officer or prosecuting authority must furnish a case number
32 and the purpose of the investigation or an outstanding arrest
33 warrant at the time of the request. Any person, institution,
34 or agency participating in good faith in disclosing such

1 information in accordance with this subsection (d) is immune
2 from any liability, civil, criminal or otherwise, that might
3 result by reason of the action.

4 (Source: P.A. 89-507, eff. 7-1-97; 90-423, eff. 8-15-97.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.