



Sen. Patricia Van Pelt

**Filed: 5/2/2018**

10000HB5308sam001

LRB100 18911 KTG 39675 a

1 AMENDMENT TO HOUSE BILL 5308

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5308 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 5-4.1 as follows:

6 (305 ILCS 5/5-4.1) (from Ch. 23, par. 5-4.1)

7 Sec. 5-4.1. Co-payments. The Department may by rule provide  
8 that recipients under any Article of this Code shall pay a fee  
9 as a co-payment for services. Co-payments shall be maximized to  
10 the extent permitted by federal law, except that the Department  
11 shall impose a co-pay of \$2 on generic drugs. Provided,  
12 however, that any such rule must provide that no co-payment  
13 requirement can exist for renal dialysis, radiation therapy,  
14 cancer chemotherapy, or insulin, and other products necessary  
15 on a recurring basis, the absence of which would be life  
16 threatening, or where co-payment expenditures for required

1 services and/or medications for chronic diseases that the  
2 Illinois Department shall by rule designate shall cause an  
3 extensive financial burden on the recipient, and provided no  
4 co-payment shall exist for emergency room encounters which are  
5 for medical emergencies. The Department shall seek approval of  
6 a State plan amendment that allows pharmacies to refuse to  
7 dispense drugs in circumstances where the recipient does not  
8 pay the required co-payment. Co-payments may not exceed \$10 for  
9 emergency room use for a non-emergency situation as defined by  
10 the Department by rule and subject to federal approval.

11 Notwithstanding the other provisions of this Section or any  
12 other law, the Department shall not require any person  
13 incarcerated in a facility of the Department of Corrections who  
14 is eligible for medical assistance under this Article to pay a  
15 fee as a co-payment for services.

16 (Source: P.A. 96-1501, eff. 1-25-11; 97-74, eff. 6-30-11;  
17 97-689, eff. 6-14-12.)

18 Section 10. The Unified Code of Corrections is amended by  
19 changing Section 3-6-2 as follows:

20 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

21 Sec. 3-6-2. Institutions and Facility Administration.

22 (a) Each institution and facility of the Department shall  
23 be administered by a chief administrative officer appointed by  
24 the Director. A chief administrative officer shall be

1 responsible for all persons assigned to the institution or  
2 facility. The chief administrative officer shall administer  
3 the programs of the Department for the custody and treatment of  
4 such persons.

5 (b) The chief administrative officer shall have such  
6 assistants as the Department may assign.

7 (c) The Director or Assistant Director shall have the  
8 emergency powers to temporarily transfer individuals without  
9 formal procedures to any State, county, municipal or regional  
10 correctional or detention institution or facility in the State,  
11 subject to the acceptance of such receiving institution or  
12 facility, or to designate any reasonably secure place in the  
13 State as such an institution or facility and to make transfers  
14 thereto. However, transfers made under emergency powers shall  
15 be reviewed as soon as practicable under Article 8, and shall  
16 be subject to Section 5-905 of the Juvenile Court Act of 1987.  
17 This Section shall not apply to transfers to the Department of  
18 Human Services which are provided for under Section 3-8-5 or  
19 Section 3-10-5.

20 (d) The Department shall provide educational programs for  
21 all committed persons so that all persons have an opportunity  
22 to attain the achievement level equivalent to the completion of  
23 the twelfth grade in the public school system in this State.  
24 Other higher levels of attainment shall be encouraged and  
25 professional instruction shall be maintained wherever  
26 possible. The Department may establish programs of mandatory

1 education and may establish rules and regulations for the  
2 administration of such programs. A person committed to the  
3 Department who, during the period of his or her incarceration,  
4 participates in an educational program provided by or through  
5 the Department and through that program is awarded or earns the  
6 number of hours of credit required for the award of an  
7 associate, baccalaureate, or higher degree from a community  
8 college, college, or university located in Illinois shall  
9 reimburse the State, through the Department, for the costs  
10 incurred by the State in providing that person during his or  
11 her incarceration with the education that qualifies him or her  
12 for the award of that degree. The costs for which reimbursement  
13 is required under this subsection shall be determined and  
14 computed by the Department under rules and regulations that it  
15 shall establish for that purpose. However, interest at the rate  
16 of 6% per annum shall be charged on the balance of those costs  
17 from time to time remaining unpaid, from the date of the  
18 person's parole, mandatory supervised release, or release  
19 constituting a final termination of his or her commitment to  
20 the Department until paid.

21 (d-5) A person committed to the Department is entitled to  
22 confidential testing for infection with human immunodeficiency  
23 virus (HIV) and to counseling in connection with such testing,  
24 with no copay to the committed person. A person committed to  
25 the Department who has tested positive for infection with HIV  
26 is entitled to medical care while incarcerated, counseling, and

1 referrals to support services, in connection with that positive  
2 test result. Implementation of this subsection (d-5) is subject  
3 to appropriation.

4 (e) A person committed to the Department who becomes in  
5 need of medical or surgical treatment but is incapable of  
6 giving consent thereto shall receive such medical or surgical  
7 treatment by the chief administrative officer consenting on the  
8 person's behalf. Before the chief administrative officer  
9 consents, he or she shall obtain the advice of one or more  
10 physicians licensed to practice medicine in all its branches in  
11 this State. If such physician or physicians advise:

12 (1) that immediate medical or surgical treatment is  
13 required relative to a condition threatening to cause  
14 death, damage or impairment to bodily functions, or  
15 disfigurement; and

16 (2) that the person is not capable of giving consent to  
17 such treatment; the chief administrative officer may give  
18 consent for such medical or surgical treatment, and such  
19 consent shall be deemed to be the consent of the person for  
20 all purposes, including, but not limited to, the authority  
21 of a physician to give such treatment.

22 (e-5) If a physician providing medical care to a committed  
23 person on behalf of the Department advises the chief  
24 administrative officer that the committed person's mental or  
25 physical health has deteriorated as a result of the cessation  
26 of ingestion of food or liquid to the point where medical or

1 surgical treatment is required to prevent death, damage, or  
2 impairment to bodily functions, the chief administrative  
3 officer may authorize such medical or surgical treatment.

4 (f) In the event that the person requires medical care and  
5 treatment at a place other than the institution or facility,  
6 the person may be removed therefrom under conditions prescribed  
7 by the Department. The Department of Corrections shall not  
8 require any committed person receiving medical or dental  
9 treatment or services to pay a fee as a co-payment for such  
10 treatment or services. ~~The Department shall require the~~  
11 ~~committed person receiving medical or dental services on a~~  
12 ~~non-emergency basis to pay a \$5 co payment to the Department~~  
13 ~~for each visit for medical or dental services. The amount of~~  
14 ~~each co payment shall be deducted from the committed person's~~  
15 ~~individual account. A committed person who has a chronic~~  
16 ~~illness, as defined by Department rules and regulations, shall~~  
17 ~~be exempt from the \$5 co payment for treatment of the chronic~~  
18 ~~illness. A committed person shall not be subject to a \$5~~  
19 ~~co payment for follow up visits ordered by a physician, who is~~  
20 ~~employed by, or contracts with, the Department. A committed~~  
21 ~~person who is indigent is exempt from the \$5 co payment and is~~  
22 ~~entitled to receive medical or dental services on the same~~  
23 ~~basis as a committed person who is financially able to afford~~  
24 ~~the co payment. For purposes of this Section only, "indigent"~~  
25 ~~means a committed person who has \$20 or less in his or her~~  
26 ~~Inmate Trust Fund at the time of such services and for the 30~~

1 ~~days prior to such services.~~ Notwithstanding any other  
2 provision in this subsection (f) to the contrary, any person  
3 committed to any facility operated by the Department of  
4 Juvenile Justice, as set forth in Section 3-2.5-15 of this  
5 Code, is exempt from the co-payment requirement for the  
6 duration of confinement in those facilities.

7 (g) Any person having sole custody of a child at the time  
8 of commitment or any woman giving birth to a child after her  
9 commitment, may arrange through the Department of Children and  
10 Family Services for suitable placement of the child outside of  
11 the Department of Corrections. The Director of the Department  
12 of Corrections may determine that there are special reasons why  
13 the child should continue in the custody of the mother until  
14 the child is 6 years old.

15 (h) The Department may provide Family Responsibility  
16 Services which may consist of, but not be limited to the  
17 following:

18 (1) family advocacy counseling;

19 (2) parent self-help group;

20 (3) parenting skills training;

21 (4) parent and child overnight program;

22 (5) parent and child reunification counseling, either  
23 separately or together, preceding the inmate's release;  
24 and

25 (6) a prerelease reunification staffing involving the  
26 family advocate, the inmate and the child's counselor, or

1 both and the inmate.

2 (i) (Blank).

3 (j) Any person convicted of a sex offense as defined in the  
4 Sex Offender Management Board Act shall be required to receive  
5 a sex offender evaluation prior to release into the community  
6 from the Department of Corrections. The sex offender evaluation  
7 shall be conducted in conformance with the standards and  
8 guidelines developed under the Sex Offender Management Board  
9 Act and by an evaluator approved by the Board.

10 (k) Any minor committed to the Department of Juvenile  
11 Justice for a sex offense as defined by the Sex Offender  
12 Management Board Act shall be required to undergo sex offender  
13 treatment by a treatment provider approved by the Board and  
14 conducted in conformance with the Sex Offender Management Board  
15 Act.

16 (l) Prior to the release of any inmate committed to a  
17 facility of the Department or the Department of Juvenile  
18 Justice, the Department must provide the inmate with  
19 appropriate information verbally, in writing, by video, or  
20 other electronic means, concerning HIV and AIDS. The Department  
21 shall develop the informational materials in consultation with  
22 the Department of Public Health. At the same time, the  
23 Department must also offer the committed person the option of  
24 testing for infection with human immunodeficiency virus (HIV),  
25 with no copayment for the test. Pre-test information shall be  
26 provided to the committed person and informed consent obtained



1 as required in subsection (d) of Section 3 and Section 5 of the  
2 AIDS Confidentiality Act. The Department may conduct opt-out  
3 HIV testing as defined in Section 4 of the AIDS Confidentiality  
4 Act. If the Department conducts opt-out HIV testing, the  
5 Department shall place signs in English, Spanish and other  
6 languages as needed in multiple, highly visible locations in  
7 the area where HIV testing is conducted informing inmates that  
8 they will be tested for HIV unless they refuse, and refusal or  
9 acceptance of testing shall be documented in the inmate's  
10 medical record. The Department shall follow procedures  
11 established by the Department of Public Health to conduct HIV  
12 testing and testing to confirm positive HIV test results. All  
13 testing must be conducted by medical personnel, but pre-test  
14 and other information may be provided by committed persons who  
15 have received appropriate training. The Department, in  
16 conjunction with the Department of Public Health, shall develop  
17 a plan that complies with the AIDS Confidentiality Act to  
18 deliver confidentially all positive or negative HIV test  
19 results to inmates or former inmates. Nothing in this Section  
20 shall require the Department to offer HIV testing to an inmate  
21 who is known to be infected with HIV, or who has been tested  
22 for HIV within the previous 180 days and whose documented HIV  
23 test result is available to the Department electronically. The  
24 testing provided under this subsection (1) shall consist of a  
25 test approved by the Illinois Department of Public Health to  
26 determine the presence of HIV infection, based upon

1 recommendations of the United States Centers for Disease  
2 Control and Prevention. If the test result is positive, a  
3 reliable supplemental test based upon recommendations of the  
4 United States Centers for Disease Control and Prevention shall  
5 be administered.

6 Prior to the release of an inmate who the Department knows  
7 has tested positive for infection with HIV, the Department in a  
8 timely manner shall offer the inmate transitional case  
9 management, including referrals to other support services.

10 (m) The chief administrative officer of each institution or  
11 facility of the Department shall make a room in the institution  
12 or facility available for addiction recovery services to be  
13 provided to committed persons on a voluntary basis. The  
14 services shall be provided for one hour once a week at a time  
15 specified by the chief administrative officer of the  
16 institution or facility if the following conditions are met:

17 (1) the addiction recovery service contacts the chief  
18 administrative officer to arrange the meeting;

19 (2) the committed person may attend the meeting for  
20 addiction recovery services only if the committed person  
21 uses pre-existing free time already available to the  
22 committed person;

23 (3) all disciplinary and other rules of the institution  
24 or facility remain in effect;

25 (4) the committed person is not given any additional  
26 privileges to attend addiction recovery services;

1           (5) if the addiction recovery service does not arrange  
2 for scheduling a meeting for that week, no addiction  
3 recovery services shall be provided to the committed person  
4 in the institution or facility for that week;

5           (6) the number of committed persons who may attend an  
6 addiction recovery meeting shall not exceed 40 during any  
7 session held at the correctional institution or facility;

8           (7) a volunteer seeking to provide addiction recovery  
9 services under this subsection (m) must submit an  
10 application to the Department of Corrections under  
11 existing Department rules and the Department must review  
12 the application within 60 days after submission of the  
13 application to the Department; and

14           (8) each institution and facility of the Department  
15 shall manage the addiction recovery services program  
16 according to its own processes and procedures.

17           For the purposes of this subsection (m), "addiction  
18 recovery services" means recovery services for alcoholics and  
19 addicts provided by volunteers of recovery support services  
20 recognized by the Department of Human Services.

21           (Source: P.A. 96-284, eff. 1-1-10; 97-244, eff. 8-4-11; 97-323,  
22 eff. 8-12-11; 97-562, eff. 1-1-12; 97-802, eff. 7-13-12;  
23 97-813, eff. 7-13-12.)".