

1 AN ACT regarding the delivery of medical services in
2 correctional institutions and facilities.

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

5 Section 1. Short title. This Act may be cited as the
6 Department of Corrections Medical Services Continuity Act.

7 Section 5. Legislative findings; declaration of policy.

8 (a) The purpose of this Act is to provide for continuity
9 of medical services in correctional institutions and
10 facilities, including juvenile facilities, under the
11 maintenance and control of the Department of Corrections. The
12 Department of Corrections is mandated to maintain and
13 administer all State correctional institutions and
14 facilities, including juvenile facilities. The Department of
15 Corrections is required to provide medical and dental
16 services, including mental health services, to all
17 incarcerated persons in the correctional institutions and
18 facilities, including the juvenile facilities, under its
19 maintenance and control. In certain instances, contracts are
20 entered into with private entities (contractors) for the
21 purposes of providing those medical and dental services,
22 including mental health services. From time to time, under
23 and in accordance with the contracting and bidding
24 requirements of State law, the identity of the contractor or
25 contractors providing those services is changed or the
26 Department of Corrections resumes providing those medical,
27 mental health, or dental services.

28 (b) The General Assembly finds that disruption in the
29 provision of medical and dental services, including mental
30 health services, to incarcerated persons in correctional
31 institutions and facilities, including juvenile facilities,

1 of this State is detrimental to the operation of those
2 facilities, including the maintenance of security in those
3 facilities. The General Assembly further finds that such
4 disruption will be less likely if there is a transition
5 employment period when a new contractor replaces a previous
6 contractor in providing medical, dental, or mental health
7 services in correctional institutions and facilities,
8 including juvenile facilities, of this State.

9 (c) It is hereby declared to be the policy of the State
10 of Illinois that there shall be a transition employment
11 period when a new contractor replaces a previous contractor
12 in providing medical, dental, or mental health services in
13 correctional institutions and facilities, including juvenile
14 facilities, under the maintenance and control of the
15 Department of Corrections.

16 Section 10. Definitions. As used in this Act:

17 "Contractor" means an individual or entity having a
18 written or oral agreement to provide covered services in a
19 correctional facility. "Contractor" includes a subcontractor.
20 "Contractor" includes the Department of Corrections under the
21 circumstances set forth in the definition of "new
22 contractor".

23 "Correctional facility" means a correctional institution
24 or facility, including a juvenile facility, under the
25 maintenance and control of the Department of Corrections.

26 "Covered services" mean the medical, dental, or mental
27 health services provided by a contractor and includes all
28 services, both direct and indirect, provided in connection
29 with those services.

30 "Employee" means a person employed by a contractor other
31 than a person employed in a bona fide supervisory or
32 managerial position as defined by applicable law.

33 "New contractor" means a contractor with written or oral

1 contract to provide covered services in a correctional
2 facility that were previously provided by a previous
3 contractor or that will no longer be provided by a previous
4 contractor when the previous contractor's contract expires.
5 The Department of Corrections shall be deemed to be a "new
6 contractor" for purposes of this Act when the Department of
7 Corrections resumes providing covered services that were
8 previously provided by a previous contractor.

9 "Previous contractor" means a contractor who had or has
10 an oral or written contract to provide covered services but
11 whose contract has expired or is expiring.

12 Section 15. Transition employment period.

13 (a) If a labor organization is the exclusive bargaining
14 agent of the new contractor's employees on the effective date
15 of the new contract, this Act shall not apply to the new
16 contractor.

17 (b) A new contractor shall employ, for a 90-day
18 transition employment period, employees who had been employed
19 by or were on the payroll of the previous contractor on the
20 last working day immediately preceding the effective date of
21 the contract of the new contractor.

22 (c) A new contractor who is awarded an oral or written
23 contract to provide covered services shall maintain, for a
24 90-day transition employment period, the hours, wages,
25 benefits, and all other terms and working conditions in
26 effect for employees employed by or on the payroll of the
27 previous contractor on the last working day immediately
28 preceding the effective date of the contract of the new
29 contractor.

30 (d) No later than 10 days after a contract is awarded to
31 a new contractor, the previous contractor shall make
32 available to the new contractor the names of all employees of
33 the previous contractor, the date each employee was hired,

1 each employee's occupation classification, and each
2 employee's wages, hours, benefits, and other terms and
3 working conditions.

4 (e) If, at any time, the new contractor determines that
5 fewer employees are required to perform the covered services
6 than were employed by the previous contractor, the new
7 contractor shall retain employees by seniority within job
8 classifications.

9 (f) During the 90-day transition employment period, the
10 new contractor shall maintain a preferential hiring list of
11 employees not retained by the new contractor from which the
12 new contractor shall hire any additional employees as needed
13 by the new contractor.

14 (g) Except as provided in subsection (e), the new
15 contractor may not discharge an employee during the 90-day
16 transition employment period without just cause.

17 Section 20. Other requirements.

18 (a) No contractor shall receive a contract to provide
19 covered services unless the contractor has agreed to comply
20 with this Act.

21 (b) All contracts for the provision of covered services
22 shall include the requirements set forth in Section 15 and an
23 agreement by the contractor to comply with this Act.

24 Section 25. Enforcement.

25 (a) If a person violates any provision of this Act, the
26 State of Illinois or the Department of Corrections may take
27 any action necessary to compel compliance, including but not
28 limited to, instituting a civil action for injunctive relief,
29 specific performance, or damages or a combination of those
30 remedies.

31 (b) If the State of Illinois or the Department of
32 Corrections brings an action to enforce this Act, any person,

1 organization, or association with a direct interest in
2 compliance with this Act may join in that enforcement action
3 as a real party in interest.

4 (c) If the State of Illinois or the Department of
5 Corrections declines to institute an action for enforcement
6 for violation of the transition employment period provisions
7 of this Act, any person, organization, or association with a
8 direct interest in compliance with this Act may institute a
9 civil action on his or her or its own behalf and on behalf of
10 the State of Illinois for injunctive relief, specific
11 performance, or damages or a combination of those remedies.

12 (d) Monetary damages for violation of this Act shall
13 include:

14 (i) For each employee discharged or removed from
15 employment in violation of this Act or not offered
16 re-employment as required by this Act, an amount equal to
17 the salary or wages that the employee would have received
18 but for the violation of this Act.

19 (ii) For each employee whose wages, hours,
20 benefits, or other terms and working conditions are
21 altered in violation of this Act, an amount measured by
22 the difference between the salary or wages or monetary
23 value of benefits received and the amount that the
24 employee would have received but for the violation of
25 this Act.

26 (iii) In view of the difficulty in determining
27 actual damages incurred as a result of a violation of
28 this Act with respect to certain working conditions,
29 liquidated damages in the amount of \$25 per day for each
30 employee who has been affected by a violation of this Act
31 or in an amount equal to the damages awarded under items
32 (i) and (ii) above, whichever is greater.

33 (iv) Reasonable attorney's fees and costs.

1 Section 90. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.