



Sen. David Koehler

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LRB104 07007 BAB 24876 a

1 AMENDMENT TO SENATE BILL 709

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 709 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as the  
5 Prescription Drug Affordability Act.

6 Section 5. The State Employees Group Insurance Act of 1971  
7 is amended by changing Section 6.11 as follows:

8 (5 ILCS 375/6.11)

9 Sec. 6.11. Required health benefits; Illinois Insurance  
10 Code requirements. The program of health benefits shall  
11 provide the post-mastectomy care benefits required to be  
12 covered by a policy of accident and health insurance under  
13 Section 356t of the Illinois Insurance Code. The program of  
14 health benefits shall provide the coverage required under  
15 Sections 356g, 356g.5, 356g.5-1, 356m, 356q, 356u, 356u.10,

1 356w, 356x, 356z.2, 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8,  
2 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15,  
3 356z.17, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.32,  
4 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47,  
5 356z.51, 356z.53, 356z.54, 356z.55, 356z.56, 356z.57, 356z.59,  
6 356z.60, 356z.61, 356z.62, 356z.64, 356z.67, 356z.68, ~~and~~  
7 356z.70, ~~and~~ 356z.71, 356z.74, 356z.76, and 356z.77 of the  
8 Illinois Insurance Code. The program of health benefits must  
9 comply with Sections 155.22a, 155.37, 355b, 356z.19, 370c, and  
10 370c.1 and Article XXXIIB of the Illinois Insurance Code. The  
11 program of health benefits shall provide the coverage required  
12 under Section 356m of the Illinois Insurance Code and, for the  
13 employees of the State Employee Group Insurance Program only,  
14 the coverage as also provided in Section 6.11B of this Act. The  
15 Department of Insurance shall enforce the requirements of this  
16 Section with respect to Sections 370c and 370c.1 and Article  
17 XXXIIB of the Illinois Insurance Code; all other requirements  
18 of this Section shall be enforced by the Department of Central  
19 Management Services.

20 Rulemaking authority to implement Public Act 95-1045, if  
21 any, is conditioned on the rules being adopted in accordance  
22 with all provisions of the Illinois Administrative Procedure  
23 Act and all rules and procedures of the Joint Committee on  
24 Administrative Rules; any purported rule not so adopted, for  
25 whatever reason, is unauthorized.

26 (Source: P.A. 102-30, eff. 1-1-22; 102-103, eff. 1-1-22;

1 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-642, eff.  
2 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-768,  
3 eff. 1-1-24; 102-804, eff. 1-1-23; 102-813, eff. 5-13-22;  
4 102-816, eff. 1-1-23; 102-860, eff. 1-1-23; 102-1093, eff.  
5 1-1-23; 102-1117, eff. 1-13-23; 103-8, eff. 1-1-24; 103-84,  
6 eff. 1-1-24; 103-91, eff. 1-1-24; 103-420, eff. 1-1-24;  
7 103-445, eff. 1-1-24; 103-535, eff. 8-11-23; 103-551, eff.  
8 8-11-23; 103-605, eff. 7-1-24; 103-718, eff. 7-19-24; 103-751,  
9 eff. 8-2-24; 103-870, eff. 1-1-25; 103-914, eff. 1-1-25;  
10 103-918, eff. 1-1-25; 103-951, eff. 1-1-25; 103-1024, eff.  
11 1-1-25; revised 11-26-24.)

12 Section 10. The School Code is amended by changing Section  
13 10-22.3f as follows:

14 (105 ILCS 5/10-22.3f)

15 Sec. 10-22.3f. Required health benefits. Insurance  
16 protection and benefits for employees shall provide the  
17 post-mastectomy care benefits required to be covered by a  
18 policy of accident and health insurance under Section 356t and  
19 the coverage required under Sections 356g, 356g.5, 356g.5-1,  
20 356m, 356q, 356u, 356u.10, 356w, 356x, 356z.4, 356z.4a,  
21 356z.6, 356z.8, 356z.9, 356z.11, 356z.12, 356z.13, 356z.14,  
22 356z.15, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.32,  
23 356z.33, 356z.36, 356z.40, 356z.41, 356z.45, 356z.46, 356z.47,  
24 356z.51, 356z.53, 356z.54, 356z.56, 356z.57, 356z.59, 356z.60,

1 356z.61, 356z.62, 356z.64, 356z.67, 356z.68, ~~and~~ 356z.70, ~~and~~  
2 356z.71, 356z.74, and 356z.77 of the Illinois Insurance Code.  
3 Insurance policies shall comply with Section 356z.19 of the  
4 Illinois Insurance Code. The coverage shall comply with  
5 Sections 155.22a, 355b, and 370c and Article XXXIIB of the  
6 Illinois Insurance Code. The Department of Insurance shall  
7 enforce the requirements of this Section.

8 Rulemaking authority to implement Public Act 95-1045, if  
9 any, is conditioned on the rules being adopted in accordance  
10 with all provisions of the Illinois Administrative Procedure  
11 Act and all rules and procedures of the Joint Committee on  
12 Administrative Rules; any purported rule not so adopted, for  
13 whatever reason, is unauthorized.

14 (Source: P.A. 102-30, eff. 1-1-22; 102-103, eff. 1-1-22;  
15 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-642, eff.  
16 1-1-22; 102-665, eff. 10-8-21; 102-731, eff. 1-1-23; 102-804,  
17 eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23;  
18 102-860, eff. 1-1-23; 102-1093, eff. 1-1-23; 102-1117, eff.  
19 1-13-23; 103-84, eff. 1-1-24; 103-91, eff. 1-1-24; 103-420,  
20 eff. 1-1-24; 103-445, eff. 1-1-24; 103-535, eff. 8-11-23;  
21 103-551, eff. 8-11-23; 103-605, eff. 7-1-24; 103-718, eff.  
22 7-19-24; 103-751, eff. 8-2-24; 103-914, eff. 1-1-25; 103-918,  
23 eff. 1-1-25; 103-1024, eff. 1-1-25; revised 11-26-24.)

24 Section 15. The Illinois Insurance Code is amended by  
25 changing Sections 513b1 and 513b3 and by adding Section

1 513b1.1 as follows:

2 (215 ILCS 5/513b1)

3 Sec. 513b1. Pharmacy benefit manager contracts.

4 (a) As used in this Section:

5 "340B drug discount program" means the program established  
6 under Section 340B of the federal Public Health Service Act,  
7 42 U.S.C. 256b.

8 "340B entity" means a covered entity as defined in 42  
9 U.S.C. 256b(a)(4) authorized to participate in the 340B drug  
10 discount program.

11 "340B pharmacy" means any pharmacy used to dispense 340B  
12 drugs for a covered entity, whether entity-owned or external.

13 "Affiliate" means a person or entity that directly or  
14 indirectly through one or more intermediaries controls or is  
15 controlled by, or is under common control with, the person or  
16 entity specified.

17 "Biological product" has the meaning ascribed to that term  
18 in Section 19.5 of the Pharmacy Practice Act.

19 "Brand name drug" means a drug that has been approved  
20 under 42 U.S.C. 262 or 21 U.S.C. 355(c), as applicable, and is  
21 marketed, sold, or distributed under a proprietary,  
22 trademark-protected name.

23 "Complex or chronic medical condition" means a physical,  
24 behavioral, or developmental condition that has no known cure,  
25 is progressive, or can be debilitating or fatal if unmanaged

1 or untreated.

2 "Covered individual" means a member, participant,  
3 enrollee, contract holder, policyholder, or beneficiary of a  
4 health benefit plan who is provided a drug benefit by the  
5 health benefit plan.

6 "Critical access pharmacy" means a critical access care  
7 pharmacy as defined in Section 5-5.12b of the Illinois Public  
8 Aid Code.

9 "Drugs" has the meaning ascribed to that term in Section 3  
10 of the Pharmacy Practice Act and includes biological products.

11 "Generic drug" means a drug that has been approved under  
12 42 U.S.C. 262 or 21 U.S.C. 355(c), as applicable, and is  
13 marketed, sold, or distributed directly or indirectly to the  
14 retail class of trade with labeling, packaging (other than  
15 repackaging as the listed drug in blister packs, unit doses,  
16 or similar packaging for use in institutions), product code,  
17 labeler code, trade name, or trademark that differs from that  
18 of the brand name drug.

19 "Health benefit plan" means a policy, contract,  
20 certificate, or agreement entered into, offered, or issued by  
21 an insurer to provide, deliver, arrange for, pay for, or  
22 reimburse any of the costs of physical, mental, or behavioral  
23 health care services. Notwithstanding Sections 122-1 through  
24 122-4 of this Code, "health benefit plan" includes self-funded  
25 employee welfare benefit plans.

26 "Maximum allowable cost" means the maximum amount that a

1 pharmacy benefit manager will reimburse a pharmacy for the  
2 cost of a drug.

3 "Maximum allowable cost list" means a list of drugs for  
4 which a maximum allowable cost has been established by a  
5 pharmacy benefit manager.

6 "Pharmacy benefit manager" means a person, business, or  
7 entity, including a wholly or partially owned or controlled  
8 subsidiary of a pharmacy benefit manager, that provides claims  
9 processing services or other ~~prescription~~ drug or device  
10 services, or both, for health benefit plans.

11 "Pharmacy services" means the provision of any services  
12 listed within the definition of "practice of pharmacy" under  
13 subsection (d) of Section 3 of the Pharmacy Practice Act.

14 "Rare medical condition" means a physical, behavioral, or  
15 developmental condition that affects fewer than 200,000  
16 individuals in the United States or approximately 1 in 1,500  
17 individuals worldwide.

18 "Rebate aggregator" means a person or entity, including  
19 group purchasing organizations, that negotiate rebates or  
20 other fees with drug manufacturers on behalf or for the  
21 benefit of a pharmacy benefit manager or its client and may  
22 also be involved in contracts that entitle the rebate  
23 aggregator or its client to receive rebates or other fees from  
24 drug manufacturers based on drug utilization or  
25 administration.

26 "Retail price" means the price an individual without

1 ~~prescription~~ drug coverage would pay at a retail pharmacy, not  
2 including a pharmacist dispensing fee.

3 "Specialty drug" means a drug that:

4 (1) is prescribed for a person with a complex or  
5 chronic medical condition or a rare medical condition;

6 (2) has limited or exclusive distribution; and

7 (3) requires both:

8 (A) specialized product handling by the dispensing  
9 pharmacy or administration by the dispensing pharmacy;  
10 and

11 (B) specialized clinical care, including frequent  
12 dosing adjustments, intensive clinical monitoring, or  
13 expanded services for patients, including intensive  
14 patient counseling, education, or ongoing clinical  
15 support beyond traditional dispensing activities, such  
16 as individualized disease and therapy management to  
17 support improved health outcomes.

18 "Spread pricing" means the model of drug pricing in which  
19 the pharmacy benefit manager charges a health benefit plan a  
20 contracted price for drugs, and the contracted price for the  
21 drugs differs from the amount the pharmacy benefit manager  
22 directly or indirectly pays the pharmacist or pharmacy for the  
23 drugs, pharmacist services, or drug and dispensing fees.

24 "Steer" includes, but is not limited to:

25 (1) requiring a covered individual to use only a  
26 pharmacy, including a mail-order or specialty pharmacy, in

1 which the pharmacy benefit manager or its affiliate  
2 maintains an ownership interest or control;

3 (2) offering or implementing a plan design that  
4 encourages a covered individual to use a pharmacy in which  
5 the pharmacy benefit manager or an affiliate maintains an  
6 ownership interest or control, if such plan design  
7 increases costs for the covered individual. This includes  
8 a plan design that requires a covered individual to pay  
9 higher costs or an increased share of costs for a drug or  
10 drug-related service if the covered individual uses a  
11 pharmacy that is not owned or controlled by the pharmacy  
12 benefit manager or its affiliate.

13 (3) reimbursing a pharmacy or pharmacist for a drug  
14 and pharmacist service in an amount less than the amount  
15 that the pharmacy benefit manager reimburses itself or an  
16 affiliate, including affiliated manufacturers or joint  
17 ventures for providing the same drug or service.

18 "Third-party payer" means any entity that pays for  
19 ~~prescription~~ drugs on behalf of a patient other than a health  
20 care provider or sponsor of a plan subject to regulation under  
21 Medicare Part D, 42 U.S.C. 1395w-101 et seq.

22 (a-5) In this Article, references to an "insurer" or  
23 "health insurer" shall include commercial private health  
24 insurance issuers, managed care organizations, managed care  
25 community networks, and any other third-party payer that  
26 contracts with pharmacy benefit managers or with the

1 Department of Healthcare and Family Services to provide  
2 benefits or services under the Medicaid program or to  
3 otherwise engage in the administration or payment of pharmacy  
4 benefits. However, the terms do not refer to the plan sponsor  
5 of a self-funded, single-employer employee welfare benefit  
6 plan subject to 29 U.S.C. 1144.

7 (b) A contract between a health insurer and a pharmacy  
8 benefit manager must require that the pharmacy benefit  
9 manager:

10 (1) Update maximum allowable cost pricing information  
11 at least every 7 calendar days.

12 (2) Maintain a process that will, in a timely manner,  
13 eliminate drugs from maximum allowable cost lists or  
14 modify drug prices to remain consistent with changes in  
15 pricing data used in formulating maximum allowable cost  
16 prices and product availability.

17 (3) Provide access to its maximum allowable cost list  
18 to each pharmacy or pharmacy services administrative  
19 organization subject to the maximum allowable cost list.  
20 Access may include a real-time pharmacy website portal to  
21 be able to view the maximum allowable cost list. As used in  
22 this Section, "pharmacy services administrative  
23 organization" means an entity operating within the State  
24 that contracts with independent pharmacies to conduct  
25 business on their behalf with third-party payers. A  
26 pharmacy services administrative organization may provide

1 administrative services to pharmacies and negotiate and  
2 enter into contracts with third-party payers or pharmacy  
3 benefit managers on behalf of pharmacies.

4 (4) Provide a process by which a contracted pharmacy  
5 can appeal the provider's reimbursement for a drug subject  
6 to maximum allowable cost pricing. The appeals process  
7 must, at a minimum, include the following:

8 (A) A requirement that a contracted pharmacy has  
9 14 calendar days after the applicable fill date to  
10 appeal a maximum allowable cost if the reimbursement  
11 for the drug is less than the net amount that the  
12 network provider paid to the supplier of the drug.

13 (B) A requirement that a pharmacy benefit manager  
14 must respond to a challenge within 14 calendar days of  
15 the contracted pharmacy making the claim for which the  
16 appeal has been submitted.

17 (C) A telephone number and e-mail address or  
18 website to network providers, at which the provider  
19 can contact the pharmacy benefit manager to process  
20 and submit an appeal.

21 (D) A requirement that, if an appeal is denied,  
22 the pharmacy benefit manager must provide the reason  
23 for the denial and the name and the national drug code  
24 number from national or regional wholesalers.

25 (E) A requirement that, if an appeal is sustained,  
26 the pharmacy benefit manager must make an adjustment

1 in the drug price effective the date the challenge is  
2 resolved and make the adjustment applicable to all  
3 similarly situated network pharmacy providers, as  
4 determined by the managed care organization or  
5 pharmacy benefit manager.

6 (5) Allow a plan sponsor or insurer whose coverage is  
7 administered by the ~~contracting with a~~ pharmacy benefit  
8 manager an annual right to audit compliance with the terms  
9 of the contract by the pharmacy benefit manager,  
10 including, but not limited to, full disclosure of any and  
11 all rebate amounts secured, whether product specific or  
12 generalized rebates, that were provided to the pharmacy  
13 benefit manager by a pharmaceutical manufacturer. The cost  
14 of the audit shall be borne exclusively by the pharmacy  
15 benefit manager.

16 (6) Allow a plan sponsor or insurer whose coverage is  
17 administered by the ~~contracting with a~~ pharmacy benefit  
18 manager to request that the pharmacy benefit manager  
19 disclose the actual amounts paid by the pharmacy benefit  
20 manager to the pharmacy.

21 (7) Provide notice to the plan sponsor or the insurer  
22 party contracting with the pharmacy benefit manager of any  
23 consideration that the pharmacy benefit manager receives  
24 from the manufacturer for dispense as written  
25 ~~prescriptions~~ once a generic or biologically similar  
26 product becomes available.

1 (c) In order to place a particular ~~prescription~~ drug on a  
2 maximum allowable cost list, the pharmacy benefit manager  
3 must, at a minimum, ensure that:

4 (1) if the drug is a generically equivalent drug, it  
5 is listed as therapeutically equivalent and  
6 pharmaceutically equivalent "A" or "B" rated in the United  
7 States Food and Drug Administration's most recent version  
8 of the "Orange Book" or have an NR or NA rating by  
9 Medi-Span, Gold Standard, or a similar rating by a  
10 nationally recognized reference;

11 (2) the drug is available for purchase by each  
12 pharmacy in the State from national or regional  
13 wholesalers operating in Illinois; and

14 (3) the drug is not obsolete.

15 (d) A pharmacy benefit manager is prohibited from limiting  
16 a pharmacist's ability to disclose whether the cost-sharing  
17 obligation exceeds the retail price for a covered ~~prescription~~  
18 drug, and the availability of a more affordable alternative  
19 drug, if one is available in accordance with Section 42 of the  
20 Pharmacy Practice Act.

21 (e) A health insurer or pharmacy benefit manager shall not  
22 require a covered individual ~~an insured~~ to make a payment for a  
23 ~~prescription~~ drug at the point of sale in an amount that  
24 exceeds the lesser of:

25 (1) the applicable cost-sharing amount; ~~or~~

26 (2) the retail price of the drug in the absence of

1 ~~prescription~~ drug coverage;

2 (3) the discounted price available through a no cost  
3 drug program or drug manufacturer voucher provided by or  
4 for the covered individual at the point of sale; or

5 (4) the discounted price available through a  
6 discounted health care services plan provided by or for  
7 the covered individual at the point of sale.

8 (f) Unless required by law, a contract between a pharmacy  
9 benefit manager or third-party payer and a 340B entity or 340B  
10 pharmacy shall not contain any provision that:

11 (1) distinguishes between drugs purchased through the  
12 340B drug discount program and other drugs when  
13 determining reimbursement or reimbursement methodologies,  
14 or contains otherwise less favorable payment terms or  
15 reimbursement methodologies for 340B entities or 340B  
16 pharmacies when compared to similarly situated non-340B  
17 entities;

18 (2) imposes any fee, chargeback, or rate adjustment  
19 that is not similarly imposed on similarly situated  
20 pharmacies that are not 340B entities or 340B pharmacies;

21 (3) imposes any fee, chargeback, or rate adjustment  
22 that exceeds the fee, chargeback, or rate adjustment that  
23 is not similarly imposed on similarly situated pharmacies  
24 that are not 340B entities or 340B pharmacies;

25 (4) prevents or interferes with an individual's choice  
26 to receive a covered ~~prescription~~ drug from a 340B entity

1 or 340B pharmacy through any legally permissible means,  
2 except that nothing in this paragraph shall prohibit the  
3 establishment of differing copayments or other  
4 cost-sharing amounts within the health benefit plan for  
5 covered individuals ~~persons~~ who acquire covered  
6 ~~prescription~~ drugs from a nonpreferred or nonparticipating  
7 provider;

8 (5) excludes a 340B entity or 340B pharmacy from a  
9 pharmacy network on any basis that includes consideration  
10 of whether the 340B entity or 340B pharmacy participates  
11 in the 340B drug discount program;

12 (6) prevents a 340B entity or 340B pharmacy from using  
13 a drug purchased under the 340B drug discount program; or

14 (7) any other provision that discriminates against a  
15 340B entity or 340B pharmacy by treating the 340B entity  
16 or 340B pharmacy differently than non-340B entities or  
17 non-340B pharmacies for any reason relating to the  
18 entity's participation in the 340B drug discount program.

19 As used in this subsection, "pharmacy benefit manager" and  
20 "third-party payer" do not include pharmacy benefit managers  
21 and third-party payers acting on behalf of a Medicaid program.

22 (f-5) A pharmacy benefit manager or an affiliate acting on  
23 its behalf shall not conduct spread pricing.

24 (f-10) A pharmacy benefit manager or an affiliate acting  
25 on its behalf shall not steer a covered individual.

26 (f-15) A pharmacy benefit manager or rebate aggregator

1 must remit no less than 90% of any amounts paid by a  
2 pharmaceutical manufacturer, wholesaler, or other distributor  
3 of a drug, including, but not limited to, rebates, group  
4 purchasing fees, and other fees, to the health benefit plan  
5 sponsor, covered individual, or employer. Records of rebates  
6 and fees remitted from the pharmacy benefit manager or rebate  
7 aggregator must be disclosed to the Department annually in a  
8 format to be specified by the Department.

9 (f-20) A pharmacy benefit manager must not reimburse a  
10 critical access pharmacy for a drug or pharmacy service in an  
11 amount less than the national average drug acquisition cost  
12 for the drug or pharmacy service at the time the drug is  
13 administered or dispensed, plus the current Medicaid critical  
14 access pharmacy dispensing fee. If the national average drug  
15 acquisition cost is not available at the time a drug is  
16 administered or dispensed, a pharmacy benefit manager must not  
17 reimburse a critical access pharmacy for any drug at a rate  
18 that is less than the amount established by the Department of  
19 Healthcare and Family Services for the drug or service under  
20 the Medicaid program, as set forth in the applicable  
21 administrative rule, plus the current Medicaid critical access  
22 pharmacy dispensing fee.

23 (f-25) A pharmacy benefit manager or an affiliate acting  
24 on its behalf is prohibited from limiting a covered  
25 individual's access to drugs from a pharmacy or pharmacist  
26 enrolled with the health benefit plan under the terms offered

1 to all pharmacies in the plan coverage area, including by  
2 designating the covered drug as a specialty drug contrary to  
3 the definition in this Section.

4 (f-30) The contract between the pharmacy benefit manager  
5 and the insurer or health benefit plan sponsor must allow and  
6 provide for the pharmacy benefit manager's compliance with an  
7 audit at least once per calendar year of the rebate and fee  
8 records remitted from a pharmacy benefit manager or its  
9 affiliated party to a health benefit plan. This audit may be  
10 incorporated into the audit under paragraph (5) of subsection  
11 (b) of this Section. Contracts with rebate aggregators,  
12 pharmacy services administrative organizations, pharmacies, or  
13 drug manufacturers must be available for audit by health  
14 benefit plan sponsors, insurers, or their designees at least  
15 once per plan year. Audits shall be performed by an auditor  
16 selected by the health benefit plan sponsor, insurer, or its  
17 designee. Health benefit plan sponsors and insurers shall give  
18 the pharmacy benefit manager a complete copy of the audit and  
19 the pharmacy benefit manager shall provide a complete copy of  
20 those findings to the Department within 60 days of initial  
21 receipt. Rebate contracts with rebate aggregators, pharmacy  
22 services administrative organizations, pharmacies, or drug  
23 manufacturers shall be available for audit by health benefit  
24 plan sponsor, insurer, or designee. Nothing in this Section  
25 shall limit the Department's ability to access the books and  
26 records and any and all copies thereof of pharmacy benefit

1 managers, their affiliates, or affiliated rebate aggregators.

2 (g) A violation of this Section by a pharmacy benefit  
3 manager constitutes an unfair or deceptive act or practice in  
4 the business of insurance under Section 424.

5 (h) A provision that violates subsection (f) in a contract  
6 between a pharmacy benefit manager or a third-party payer and  
7 a 340B entity that is entered into, amended, or renewed after  
8 July 1, 2022 shall be void and unenforceable. This subsection  
9 and subsection (f) do not apply to a contract between a 340B  
10 entity and the plan sponsor of a self-funded, single-employer  
11 employee welfare benefit plan subject to 29 U.S.C. 1144.

12 (i)(1) A pharmacy benefit manager may not retaliate  
13 against a pharmacist or pharmacy for disclosing information in  
14 a court, in an administrative hearing, before a legislative  
15 commission or committee, or in any other proceeding, if the  
16 pharmacist or pharmacy has reasonable cause to believe that  
17 the disclosed information is evidence of a violation of a  
18 State or federal law, rule, or regulation.

19 (2) A pharmacy benefit manager may not retaliate against a  
20 pharmacist or pharmacy for disclosing information to a  
21 government or law enforcement agency, if the pharmacist or  
22 pharmacy has reasonable cause to believe that the disclosed  
23 information is evidence of a violation of a State or federal  
24 law, rule, or regulation.

25 (3) A pharmacist or pharmacy shall make commercially  
26 reasonable efforts to limit the disclosure of confidential and

1 proprietary information.

2 (4) Retaliatory actions against a pharmacy or pharmacist  
3 include cancellation of, restriction of, or refusal to renew  
4 or offer a contract to a pharmacy solely because the pharmacy  
5 or pharmacist has:

6 (A) made disclosures of information that the  
7 pharmacist or pharmacy has reasonable cause to believe is  
8 evidence of a violation of a State or federal law, rule, or  
9 regulation;

10 (B) filed complaints with the plan or pharmacy benefit  
11 manager; or

12 (C) filed complaints against the plan or pharmacy  
13 benefit manager with the Department.

14 (j) This Section applies to contracts entered into or  
15 renewed on or after July 1, 2022 and, unless provided  
16 otherwise in this Section or in the Illinois Public Aid Code,  
17 applies to pharmacy benefit managers that are contracted with  
18 a Medicaid managed care entity on or after January 1, 2026.

19 (k) This Section applies to any health benefit ~~group or~~  
20 ~~individual policy of accident and health insurance or managed~~  
21 ~~care~~ plan that provides coverage for ~~prescription~~ drugs and  
22 that is amended, delivered, issued, or renewed on or after  
23 July 1, 2020. The changes made to this Section by this  
24 amendatory Act of the 104th General Assembly shall apply with  
25 respect to any health benefit plan that provides coverage for  
26 drugs that is amended, delivered, issued, or renewed on or

1 after January 1, 2026.

2 (1) A pharmacy benefit manager is responsible for  
3 compliance with all State requirements applicable to pharmacy  
4 benefit managers even if an action or responsibility of a  
5 pharmacy benefit manager is delegated to or completed by a  
6 third party with an affiliation or a direct or indirect  
7 contractual relationship.

8 (Source: P.A. 102-778, eff. 7-1-22; 103-154, eff. 6-30-23;  
9 103-453, eff. 8-4-23.)

10 (215 ILCS 5/513b1.1 new)

11 Sec. 513b1.1. Pharmacy benefit manager reporting  
12 requirements.

13 (a) A pharmacy benefit manager that provides services for  
14 a health benefit plan must submit an annual report no later  
15 than September 1, to the Department, each health benefit plan  
16 sponsor, and each insurer that includes the following:

17 (1) data on the health benefit plan including:

18 (A) a list of drugs including corresponding  
19 information on therapeutic class, brand name, generic  
20 name, or specialty drug name;

21 (B) number of covered individuals;

22 (C) number of drug-related claims;

23 (D) dosage units;

24 (E) dispensing channel used;

25 (F) wholesale acquisition cost per drug; and

1           (G) total out-of-pocket spending by deidentified  
2           covered individual per drug, per transaction;

3           (2) amount received by the health benefit plan in  
4           rebates, fees, or discounts related to drug utilization or  
5           spending;

6           (3) total gross spending on drugs by the health  
7           benefit plan;

8           (4) total net spending, gross spending less  
9           administrative portion of the medical loss ratio, spread  
10          pricing, on drugs by the health benefit plan;

11          (5) the amount paid by the health benefit plan to the  
12          pharmacy benefit manager for reimbursement cost of a drug  
13          and service per transaction;

14          (6) the amount a pharmacy benefit manager paid for  
15          pharmacists' services and drugs rendered related to the  
16          health benefit plan per transaction, including, but not  
17          limited to, any dispensing fee;

18          (7) the specific rebate amount received by the  
19          pharmacy benefit manager per transaction, the amount of  
20          the rebates passed through to the health benefit plan per  
21          transaction, and the amount of the rebates passed on to  
22          covered individuals at the point of sale that reduced the  
23          covered individuals' applicable deductible, copayment,  
24          coinsurance, or other cost-sharing amount per transaction;

25          (8) any information collected from drug manufacturers  
26          pertaining to copayment assistance;

1           (9) any compensation paid to brokers, consultants,  
2           advisors, or any other individual or firm for referrals,  
3           consideration, or retention by the health benefit plan;

4           (10) explanation of benefit design parameters  
5           encouraging or requiring covered individuals to use  
6           affiliated pharmacies, percentage of drugs charged by  
7           these pharmacies, and a list of drugs dispensed by  
8           affiliated pharmacies with their associated costs; and

9           (11) a complete copy of each unredacted contract the  
10           pharmacy benefit manager has with the health benefit plan  
11           sponsor or insurer.

12           (b) Annual reports pursuant to subsection (a):

13           (1) must be written in plain language to ensure ease  
14           of reading and accessibility.

15           (2) must only contain summary health information to  
16           ensure plan, coverage, or covered individual information  
17           remains private and confidential.

18           (3) upon request by a covered individual, must be  
19           available in summary format and provide aggregated  
20           information to help covered individuals understand their  
21           health benefit plan's drug coverage.

22           (4) must be filed with the Department no later than  
23           September 1 of each year via the Systems for Electronic  
24           Rates & Forms Filing (SERFF). The filing shall include the  
25           summary version of the report described in paragraph (3)  
26           of this subsection, which shall be marked for public

1       access.

2       (c) A pharmacy benefit manager may petition the Department  
3 for a filing submission extension. The Director may grant or  
4 deny the extension within 5 business days.

5       (d) Failure by a pharmacy benefit manager to submit all  
6 required elements in an annual report to the Department may  
7 result in a fine levied by the Director not to exceed \$10,000  
8 per day, per offense. Funds derived from fines levied shall be  
9 deposited into the Insurance Producer Administration Fund.  
10 Fine information shall be posted on the Department's website.

11       (e) A pharmacy benefit manager found in violation of  
12 subsection (a) or paragraph (4) of subsection (b) may request  
13 a hearing from the Director within 10 days of receipt of the  
14 Director's order, or, if the violation is found in a market  
15 conduct examination, as provided in Section 132 of this Code.

16       (f) Except for the summary version, the annual reports  
17 submitted by pharmacy benefit managers shall be considered  
18 confidential and privileged for all purposes, including for  
19 purposes of the Freedom of Information Act, shall not be  
20 subject to subpoena from any private party, and shall not be  
21 admissible as evidence in a civil action.

22       (g) A copy of an adverse decision against a pharmacy  
23 benefit manager for failing to submit an annual report to the  
24 Department must be posted to the Department's website.

25       (h) Nothing in this Section shall be construed as  
26 permitting a pharmacy benefit manager to avoid or otherwise

1 fail to comply with the reporting requirements set forth in  
2 Section 5-36 of the Illinois Public Aid Code.

3 (215 ILCS 5/513b3)

4 Sec. 513b3. Examination.

5 (a) The Director, or his or her designee, may examine a  
6 registered pharmacy benefit manager related to all of its  
7 lines of business, including government programs, under the  
8 Director's jurisdiction in accordance with Sections 132-132.7.

9 If the Director or the examiners find that the pharmacy  
10 benefit manager has violated this Article or any other  
11 insurance-related or health benefits-related laws, rules, or  
12 regulations under the Director's jurisdiction because of the  
13 manner in which the pharmacy benefit manager has conducted  
14 business on behalf of a health insurer or plan sponsor, then,  
15 unless the health insurer or plan sponsor is included in the  
16 examination and has been afforded the same opportunity to  
17 request or participate in a hearing on the examination report,  
18 the examination report shall not allege a violation by the  
19 health insurer or plan sponsor and the Director's order based  
20 on the report shall not impose any requirements, prohibitions,  
21 or penalties on the health insurer or plan sponsor. Nothing in  
22 this Section shall prevent the Director from using any  
23 information obtained during the examination of an  
24 administrator to examine, investigate, or take other  
25 appropriate regulatory or legal action with respect to a

1 health insurer or plan sponsor.

2 (b) The examination requirement for the pharmacy benefit  
3 manager to provide convenient and free access to all books and  
4 records under Sections 132 and 132.4 of this Code includes, at  
5 the Director's discretion, unredacted copies furnished  
6 electronically to the Director's market conduct surveillance  
7 personnel or examiners. Access must include information  
8 related to third-party entities affiliated or contracted with  
9 the pharmacy benefit manager, including, but not limited, to,  
10 rebate aggregators and pharmacy services administrative  
11 organizations.

12 (Source: P.A. 103-897, eff. 1-1-25.)

13 Section 20. The Illinois Public Aid Code is amended by  
14 changing Sections 5-5.12b and 5-36 as follows:

15 (305 ILCS 5/5-5.12b)

16 Sec. 5-5.12b. Critical access care pharmacy program.

17 (a) As used in this Section:

18 "Critical access care pharmacy" means ~~an Illinois-based~~  
19 brick and mortar pharmacy ~~that is~~ located in Illinois that is  
20 owned by a person or entity with an ownership or control  
21 interest in a county with fewer than 50,000 residents and that  
22 ~~owns~~ fewer than 10 pharmacies, and is either located in a  
23 county with fewer than 50,000 residents or in a county with  
24 50,000 or more residents and in an area within Illinois that is

1 designated as a Medically Underserved Area by the Health  
2 Resources and Services Administration, an agency of the U.S.  
3 Department of Health and Human Services, or at the discretion  
4 of the Department of Healthcare and Family Services, as set  
5 forth in administrative rule.

6 "Critical access care pharmacy program payment" means the  
7 number of individual prescriptions a critical access care  
8 pharmacy fills during that quarter multiplied by the lesser of  
9 the individual payment amount or the dispensing reimbursement  
10 rate made by the Department under the medical assistance  
11 program as of April 1, 2018.

12 "Individual payment amount" means the dividend of 1/4 of  
13 the annual amount appropriated for the critical access care  
14 pharmacy program by the number of prescriptions filled by all  
15 critical access care pharmacies reimbursed by Medicaid managed  
16 care organizations that quarter.

17 (b) Subject to appropriations, the Department shall  
18 establish a critical access care pharmacy program to ensure  
19 the sustainability of critical access pharmacies throughout  
20 the State of Illinois.

21 (c) The critical access care pharmacy program shall not  
22 exceed \$10,000,000 annually and individual payment amounts per  
23 prescription shall not exceed the dispensing rate that the  
24 Department would have reimbursed under the Medical Assistance  
25 Program as of April 1, 2018.

26 (d) Quarterly, the Department shall determine the number

1 of prescriptions filled by critical access care pharmacies  
2 reimbursed by Medicaid managed care organizations utilizing  
3 encounter data available to the Department. The Department  
4 shall determine the individual payment amount per prescription  
5 by dividing 1/4 of the annual amount appropriated for the  
6 critical access care pharmacy program by the number of  
7 prescriptions filled by all critical access care pharmacies  
8 reimbursed by Medicaid managed care organizations that  
9 quarter. If the individual payment amount per prescription as  
10 calculated using quarterly prescription amounts exceeds the  
11 reimbursement rate under the medical assistance program as of  
12 April 1, 2018, then the individual payment amount per  
13 prescription shall be the dispensing reimbursement rate under  
14 the medical assistance program as of April 1, 2018.

15 (e) Quarterly, the Department shall distribute to critical  
16 access care pharmacies a critical access care pharmacy program  
17 payment. The first payment shall be calculated utilizing the  
18 encounter data from the last quarter of State fiscal year  
19 2018.

20 (f) The Department may adopt rules permitting an  
21 Illinois-based brick and mortar pharmacy that owns fewer than  
22 10 pharmacies to receive critical access care pharmacy program  
23 payments in the same manner as a critical access care  
24 pharmacy, regardless of whether the pharmacy is located in a  
25 county with a population of less than 50,000.

26 (Source: P.A. 100-587, eff. 6-4-18.)

1 (305 ILCS 5/5-36)

2 Sec. 5-36. Pharmacy benefits.

3 (a)(1) The Department may enter into a contract with a  
4 third party on a fee-for-service reimbursement model for the  
5 purpose of administering pharmacy benefits as provided in this  
6 Section for members not enrolled in a Medicaid managed care  
7 organization; however, these services shall be approved by the  
8 Department. The Department shall ensure coordination of care  
9 between the third-party administrator and managed care  
10 organizations as a consideration in any contracts established  
11 in accordance with this Section. Any managed care techniques,  
12 principles, or administration of benefits utilized in  
13 accordance with this subsection shall comply with State law.

14 (2) The following shall apply to contracts between  
15 entities contracting relating to the Department's third-party  
16 administrators and pharmacies:

17 (A) the Department shall approve any contract between  
18 a third-party administrator and a pharmacy;

19 (B) the Department's third-party administrator shall  
20 not change the terms of a contract between a third-party  
21 administrator and a pharmacy without written approval by  
22 the Department; and

23 (C) the Department's third-party administrator shall  
24 not create, modify, implement, or indirectly establish any  
25 fee on a pharmacy, pharmacist, or a recipient of medical

1 assistance without written approval by the Department.

2 (b) The provisions of this Section shall not apply to  
3 outpatient pharmacy services provided by a health care  
4 facility registered as a covered entity pursuant to 42 U.S.C.  
5 256b or any pharmacy owned by or contracted with the covered  
6 entity. A Medicaid managed care organization shall, either  
7 directly or through a pharmacy benefit manager, administer and  
8 reimburse outpatient pharmacy claims submitted by a health  
9 care facility registered as a covered entity pursuant to 42  
10 U.S.C. 256b, its owned pharmacies, and contracted pharmacies  
11 in accordance with the contractual agreements the Medicaid  
12 managed care organization or its pharmacy benefit manager has  
13 with such facilities and pharmacies and in accordance with  
14 subsection (h-5).

15 (b-5) Any pharmacy benefit manager that contracts with a  
16 Medicaid managed care organization to administer and reimburse  
17 pharmacy claims as provided in this Section must be registered  
18 with the Director of Insurance in accordance with Section  
19 513b2 of the Illinois Insurance Code. A pharmacy benefit  
20 manager must comply with all provisions of Article XXXIIB of  
21 the Illinois Insurance Code to the extent that they do not  
22 prevent the application of any provision of this Article or  
23 applicable federal law. Nothing in this Section shall be  
24 construed to limit the authority of the Illinois Department or  
25 the Inspector General to administer or enforce any provisions  
26 of this Section or any other Section in the Illinois Public Aid

1 Code related to pharmacy benefit managers or Medicaid managed  
2 care entity.

3 (c) On at least an annual basis, the Director of the  
4 Department of Healthcare and Family Services shall submit a  
5 report beginning no later than one year after January 1, 2020  
6 (the effective date of Public Act 101-452) that provides an  
7 update on any contract, contract issues, formulary, dispensing  
8 fees, and maximum allowable cost concerns regarding a  
9 third-party administrator and managed care. The requirement  
10 for reporting to the General Assembly shall be satisfied by  
11 filing copies of the report with the Speaker, the Minority  
12 Leader, and the Clerk of the House of Representatives and with  
13 the President, the Minority Leader, and the Secretary of the  
14 Senate. The Department shall take care that no proprietary  
15 information is included in the report required under this  
16 Section.

17 (d) (Blank). ~~A pharmacy benefit manager shall notify the~~  
18 ~~Department in writing of any activity, policy, or practice of~~  
19 ~~the pharmacy benefit manager that directly or indirectly~~  
20 ~~presents a conflict of interest that interferes with the~~  
21 ~~discharge of the pharmacy benefit manager's duty to a managed~~  
22 ~~care organization to exercise its contractual duties.~~  
23 ~~"Conflict of interest" shall be defined by rule by the~~  
24 ~~Department.~~

25 (e) A pharmacy benefit manager shall, upon request,  
26 disclose to the Department the following information:

1           (1) whether the pharmacy benefit manager has a  
2 contract, agreement, or other arrangement with a  
3 pharmaceutical manufacturer to exclusively dispense or  
4 provide a drug to a managed care organization's enrollees,  
5 and the aggregate amounts of consideration of economic  
6 benefits collected or received pursuant to that  
7 arrangement;

8           (2) the percentage of claims payments made by the  
9 pharmacy benefit manager to pharmacies owned, managed, or  
10 controlled by the pharmacy benefit manager or any of the  
11 pharmacy benefit manager's management companies, parent  
12 companies, subsidiary companies, or jointly held  
13 companies;

14           (3) the aggregate amount of the fees or assessments  
15 imposed on, or collected from, pharmacy providers;

16           (4) the average annualized percentage of revenue  
17 collected by the pharmacy benefit manager as a result of  
18 each contract it has executed with a managed care  
19 organization contracted by the Department to provide  
20 medical assistance benefits which is not paid by the  
21 pharmacy benefit manager to pharmacy providers and  
22 pharmaceutical manufacturers or labelers or in order to  
23 perform administrative functions pursuant to its contracts  
24 with managed care organizations;

25           (5) the total number of prescriptions dispensed under  
26 each contract the pharmacy benefit manager has with a

1 managed care organization (MCO) contracted by the  
2 Department to provide medical assistance benefits;

3 (6) the aggregate wholesale acquisition cost for drugs  
4 that were dispensed to enrollees in each MCO with which  
5 the pharmacy benefit manager has a contract by any  
6 pharmacy owned, managed, or controlled by the pharmacy  
7 benefit manager or any of the pharmacy benefit manager's  
8 management companies, parent companies, subsidiary  
9 companies, or jointly-held companies;

10 (7) the aggregate amount of administrative fees that  
11 the pharmacy benefit manager received from all  
12 pharmaceutical manufacturers for prescriptions dispensed  
13 to MCO enrollees;

14 (8) for each MCO with which the pharmacy benefit  
15 manager has a contract, the aggregate amount of payments  
16 received by the pharmacy benefit manager from the MCO;

17 (9) for each MCO with which the pharmacy benefit  
18 manager has a contract, the aggregate amount of  
19 reimbursements the pharmacy benefit manager paid to  
20 contracting pharmacies; and

21 (10) any other information considered necessary by the  
22 Department.

23 (f) The information disclosed under subsection (e) shall  
24 include all retail, mail order, specialty, and compounded  
25 prescription products. All information made available to the  
26 Department under subsection (e) is confidential and not

1 subject to disclosure under the Freedom of Information Act.  
2 All information made available to the Department under  
3 subsection (e) shall not be reported or distributed in any way  
4 that compromises its competitive, proprietary, or financial  
5 value. The information shall only be used by the Department to  
6 assess the contract, agreement, or other arrangements made  
7 between a pharmacy benefit manager and a pharmacy provider,  
8 pharmaceutical manufacturer or labeler, managed care  
9 organization, or other entity, as applicable.

10 (g) A pharmacy benefit manager shall disclose directly in  
11 writing to a pharmacy provider or pharmacy services  
12 administrative organization contracting with the pharmacy  
13 benefit manager of any material change to a contract provision  
14 that affects the terms of the reimbursement, the process for  
15 verifying benefits and eligibility, dispute resolution,  
16 procedures for verifying drugs included on the formulary, and  
17 contract termination at least 30 days prior to the date of the  
18 change to the provision. The terms of this subsection shall be  
19 deemed met if the pharmacy benefit manager posts the  
20 information on a website, viewable by the public. A pharmacy  
21 service administration organization shall notify all contract  
22 pharmacies of any material change, as described in this  
23 subsection, within 2 days of notification. As used in this  
24 Section, "pharmacy services administrative organization" means  
25 an entity operating within the State that contracts with  
26 independent pharmacies to conduct business on their behalf

1 with third-party payers. A pharmacy services administrative  
2 organization may provide administrative services to pharmacies  
3 and negotiate and enter into contracts with third-party payers  
4 or pharmacy benefit managers on behalf of pharmacies.

5 (h) A pharmacy benefit manager shall not include the  
6 following in a contract with a pharmacy provider:

7 (1) a provision prohibiting the provider from  
8 informing a patient of a less costly alternative to a  
9 prescribed medication; or

10 (2) a provision that prohibits the provider from  
11 dispensing a particular amount of a prescribed medication,  
12 if the pharmacy benefit manager allows that amount to be  
13 dispensed through a pharmacy owned or controlled by the  
14 pharmacy benefit manager, unless the prescription drug is  
15 subject to restricted distribution by the United States  
16 Food and Drug Administration or requires special handling,  
17 provider coordination, or patient education that cannot be  
18 provided by a retail pharmacy.

19 (h-5) Unless required by law, a Medicaid managed care  
20 organization or pharmacy benefit manager administering or  
21 managing benefits on behalf of a Medicaid managed care  
22 organization shall not refuse to contract with a 340B entity  
23 or 340B pharmacy for refusing to accept less favorable payment  
24 terms or reimbursement methodologies when compared to  
25 similarly situated non-340B entities and shall not include in  
26 a contract with a 340B entity or 340B pharmacy a provision

1 that:

2 (1) imposes any fee, chargeback, or rate adjustment  
3 that is not similarly imposed on similarly situated  
4 pharmacies that are not 340B entities or 340B pharmacies;

5 (2) imposes any fee, chargeback, or rate adjustment  
6 that exceeds the fee, chargeback, or rate adjustment that  
7 is not similarly imposed on similarly situated pharmacies  
8 that are not 340B entities or 340B pharmacies;

9 (3) prevents or interferes with an individual's choice  
10 to receive a prescription drug from a 340B entity or 340B  
11 pharmacy through any legally permissible means;

12 (4) excludes a 340B entity or 340B pharmacy from a  
13 pharmacy network on the basis of whether the 340B entity  
14 or 340B pharmacy participates in the 340B drug discount  
15 program;

16 (5) prevents a 340B entity or 340B pharmacy from using  
17 a drug purchased under the 340B drug discount program so  
18 long as the drug recipient is a patient of the 340B entity;  
19 nothing in this Section exempts a 340B pharmacy from  
20 following the Department's preferred drug list or from any  
21 prior approval requirements of the Department or the  
22 Medicaid managed care organization that are imposed on the  
23 drug for all pharmacies; or

24 (6) any other provision that discriminates against a  
25 340B entity or 340B pharmacy by treating a 340B entity or  
26 340B pharmacy differently than non-340B entities or

1 non-340B pharmacies for any reason relating to the  
2 entity's participation in the 340B drug discount program.

3 A provision that violates this subsection in any contract  
4 between a Medicaid managed care organization or its pharmacy  
5 benefit manager and a 340B entity entered into, amended, or  
6 renewed after July 1, 2022 shall be void and unenforceable.

7 In this subsection (h-5):

8 "340B entity" means a covered entity as defined in 42  
9 U.S.C. 256b(a)(4) authorized to participate in the 340B drug  
10 discount program.

11 "340B pharmacy" means any pharmacy used to dispense 340B  
12 drugs for a covered entity, whether entity-owned or external.

13 (i) Nothing in this Section shall be construed to prohibit  
14 a pharmacy benefit manager from requiring the same  
15 reimbursement and terms and conditions for a pharmacy provider  
16 as for a pharmacy owned, controlled, or otherwise associated  
17 with the pharmacy benefit manager.

18 (j) A pharmacy benefit manager shall establish and  
19 implement a process for the resolution of disputes arising out  
20 of this Section, which shall be approved by the Department.

21 (k) The Department shall adopt rules establishing  
22 reasonable dispensing fees for fee-for-service payments in  
23 accordance with guidance or guidelines from the federal  
24 Centers for Medicare and Medicaid Services.

25 (Source: P.A. 102-558, eff. 8-20-21; 102-778, eff. 7-1-22;  
26 103-593, eff. 6-7-24.)

1 Section 25. The Juvenile Court Act of 1987 is amended by  
2 changing Section 5-515 as follows:

3 (705 ILCS 405/5-515)

4 Sec. 5-515. Medical, ~~and~~ dental, and pharmaceutical  
5 treatment and care.

6 (a) At all times during temporary custody, detention or  
7 shelter care, the court may authorize a physician, a hospital  
8 or any other appropriate health care provider to provide  
9 medical, dental or surgical procedures or pharmaceuticals if  
10 those procedures or pharmaceuticals are necessary to safeguard  
11 the minor's life or health. If the minor is covered under an  
12 existing medical or dental plan, the county shall be  
13 reimbursed for the expenses incurred for such services as if  
14 the minor were not held in temporary custody, detention, or  
15 shelter care.

16 (b) If a provider of temporary custody, detention, or  
17 shelter care has a contract with a pharmacy benefit manager or  
18 a contract with an insurance company, health maintenance  
19 organization, limited health service organization,  
20 administrative services organization, or any other managed  
21 care organization or health insurance issuer where a pharmacy  
22 benefit manager administers the provider's coverage of,  
23 payment for, or formulary design for drugs necessary to  
24 safeguard the minor's life or health, the contract with the

1 pharmacy benefit manager and the pharmacy benefit manager's  
2 activities shall be subject to Article XXXIIB of the Illinois  
3 Insurance Code and the authority of the Director of Insurance  
4 to enforce such provisions. The provider shall have all the  
5 rights of a plan sponsor under those provisions.

6 (Source: P.A. 90-590, eff. 1-1-99.)

7 Section 30. The Unified Code of Corrections is amended by  
8 changing Section 3-2-2 as follows:

9 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

10 Sec. 3-2-2. Powers and duties of the Department.

11 (1) In addition to the powers, duties, and  
12 responsibilities which are otherwise provided by law, the  
13 Department shall have the following powers:

14 (a) To accept persons committed to it by the courts of  
15 this State for care, custody, treatment, and  
16 rehabilitation, and to accept federal prisoners and  
17 noncitizens over whom the Office of the Federal Detention  
18 Trustee is authorized to exercise the federal detention  
19 function for limited purposes and periods of time.

20 (b) To develop and maintain reception and evaluation  
21 units for purposes of analyzing the custody and  
22 rehabilitation needs of persons committed to it and to  
23 assign such persons to institutions and programs under its  
24 control or transfer them to other appropriate agencies. In

1           consultation with the Department of Alcoholism and  
2           Substance Abuse (now the Department of Human Services),  
3           the Department of Corrections shall develop a master plan  
4           for the screening and evaluation of persons committed to  
5           its custody who have alcohol or drug abuse problems, and  
6           for making appropriate treatment available to such  
7           persons; the Department shall report to the General  
8           Assembly on such plan not later than April 1, 1987. The  
9           maintenance and implementation of such plan shall be  
10          contingent upon the availability of funds.

11           (b-1) To create and implement, on January 1, 2002, a  
12          pilot program to establish the effectiveness of  
13          pupillometer technology (the measurement of the pupil's  
14          reaction to light) as an alternative to a urine test for  
15          purposes of screening and evaluating persons committed to  
16          its custody who have alcohol or drug problems. The pilot  
17          program shall require the pupillometer technology to be  
18          used in at least one Department of Corrections facility.  
19          The Director may expand the pilot program to include an  
20          additional facility or facilities as he or she deems  
21          appropriate. A minimum of 4,000 tests shall be included in  
22          the pilot program. The Department must report to the  
23          General Assembly on the effectiveness of the program by  
24          January 1, 2003.

25           (b-5) To develop, in consultation with the Illinois  
26          State Police, a program for tracking and evaluating each

1 inmate from commitment through release for recording his  
2 or her gang affiliations, activities, or ranks.

3 (c) To maintain and administer all State correctional  
4 institutions and facilities under its control and to  
5 establish new ones as needed. Pursuant to its power to  
6 establish new institutions and facilities, the Department  
7 may, with the written approval of the Governor, authorize  
8 the Department of Central Management Services to enter  
9 into an agreement of the type described in subsection (d)  
10 of Section 405-300 of the Department of Central Management  
11 Services Law. The Department shall designate those  
12 institutions which shall constitute the State Penitentiary  
13 System. The Department of Juvenile Justice shall maintain  
14 and administer all State youth centers pursuant to  
15 subsection (d) of Section 3-2.5-20.

16 Pursuant to its power to establish new institutions  
17 and facilities, the Department may authorize the  
18 Department of Central Management Services to accept bids  
19 from counties and municipalities for the construction,  
20 remodeling, or conversion of a structure to be leased to  
21 the Department of Corrections for the purposes of its  
22 serving as a correctional institution or facility. Such  
23 construction, remodeling, or conversion may be financed  
24 with revenue bonds issued pursuant to the Industrial  
25 Building Revenue Bond Act by the municipality or county.  
26 The lease specified in a bid shall be for a term of not

1 less than the time needed to retire any revenue bonds used  
2 to finance the project, but not to exceed 40 years. The  
3 lease may grant to the State the option to purchase the  
4 structure outright.

5 Upon receipt of the bids, the Department may certify  
6 one or more of the bids and shall submit any such bids to  
7 the General Assembly for approval. Upon approval of a bid  
8 by a constitutional majority of both houses of the General  
9 Assembly, pursuant to joint resolution, the Department of  
10 Central Management Services may enter into an agreement  
11 with the county or municipality pursuant to such bid.

12 (c-5) To build and maintain regional juvenile  
13 detention centers and to charge a per diem to the counties  
14 as established by the Department to defray the costs of  
15 housing each minor in a center. In this subsection (c-5),  
16 "juvenile detention center" means a facility to house  
17 minors during pendency of trial who have been transferred  
18 from proceedings under the Juvenile Court Act of 1987 to  
19 prosecutions under the criminal laws of this State in  
20 accordance with Section 5-805 of the Juvenile Court Act of  
21 1987, whether the transfer was by operation of law or  
22 permissive under that Section. The Department shall  
23 designate the counties to be served by each regional  
24 juvenile detention center.

25 (d) To develop and maintain programs of control,  
26 rehabilitation, and employment of committed persons within

1 its institutions.

2 (d-5) To provide a pre-release job preparation program  
3 for inmates at Illinois adult correctional centers.

4 (d-10) To provide educational and visitation  
5 opportunities to committed persons within its institutions  
6 through temporary access to content-controlled tablets  
7 that may be provided as a privilege to committed persons  
8 to induce or reward compliance.

9 (e) To establish a system of supervision and guidance  
10 of committed persons in the community.

11 (f) To establish in cooperation with the Department of  
12 Transportation to supply a sufficient number of prisoners  
13 for use by the Department of Transportation to clean up  
14 the trash and garbage along State, county, township, or  
15 municipal highways as designated by the Department of  
16 Transportation. The Department of Corrections, at the  
17 request of the Department of Transportation, shall furnish  
18 such prisoners at least annually for a period to be agreed  
19 upon between the Director of Corrections and the Secretary  
20 of Transportation. The prisoners used on this program  
21 shall be selected by the Director of Corrections on  
22 whatever basis he deems proper in consideration of their  
23 term, behavior and earned eligibility to participate in  
24 such program - where they will be outside of the prison  
25 facility but still in the custody of the Department of  
26 Corrections. Prisoners convicted of first degree murder,

1 or a Class X felony, or armed violence, or aggravated  
2 kidnapping, or criminal sexual assault, aggravated  
3 criminal sexual abuse or a subsequent conviction for  
4 criminal sexual abuse, or forcible detention, or arson, or  
5 a prisoner adjudged a Habitual Criminal shall not be  
6 eligible for selection to participate in such program. The  
7 prisoners shall remain as prisoners in the custody of the  
8 Department of Corrections and such Department shall  
9 furnish whatever security is necessary. The Department of  
10 Transportation shall furnish trucks and equipment for the  
11 highway cleanup program and personnel to supervise and  
12 direct the program. Neither the Department of Corrections  
13 nor the Department of Transportation shall replace any  
14 regular employee with a prisoner.

15 (g) To maintain records of persons committed to it and  
16 to establish programs of research, statistics, and  
17 planning.

18 (h) To investigate the grievances of any person  
19 committed to the Department and to inquire into any  
20 alleged misconduct by employees or committed persons; and  
21 for these purposes it may issue subpoenas and compel the  
22 attendance of witnesses and the production of writings and  
23 papers, and may examine under oath any witnesses who may  
24 appear before it; to also investigate alleged violations  
25 of a parolee's or releasee's conditions of parole or  
26 release; and for this purpose it may issue subpoenas and

1           compel the attendance of witnesses and the production of  
2           documents only if there is reason to believe that such  
3           procedures would provide evidence that such violations  
4           have occurred.

5           If any person fails to obey a subpoena issued under  
6           this subsection, the Director may apply to any circuit  
7           court to secure compliance with the subpoena. The failure  
8           to comply with the order of the court issued in response  
9           thereto shall be punishable as contempt of court.

10           (i) To appoint and remove the chief administrative  
11           officers, and administer programs of training and  
12           development of personnel of the Department. Personnel  
13           assigned by the Department to be responsible for the  
14           custody and control of committed persons or to investigate  
15           the alleged misconduct of committed persons or employees  
16           or alleged violations of a parolee's or releasee's  
17           conditions of parole shall be conservators of the peace  
18           for those purposes, and shall have the full power of peace  
19           officers outside of the facilities of the Department in  
20           the protection, arrest, retaking, and reconfining of  
21           committed persons or where the exercise of such power is  
22           necessary to the investigation of such misconduct or  
23           violations. This subsection shall not apply to persons  
24           committed to the Department of Juvenile Justice under the  
25           Juvenile Court Act of 1987 on aftercare release.

26           (j) To cooperate with other departments and agencies

1 and with local communities for the development of  
2 standards and programs for better correctional services in  
3 this State.

4 (k) To administer all moneys and properties of the  
5 Department.

6 (l) To report annually to the Governor on the  
7 committed persons, institutions, and programs of the  
8 Department.

9 (l-5) (Blank).

10 (m) To make all rules and regulations and exercise all  
11 powers and duties vested by law in the Department.

12 (n) To establish rules and regulations for  
13 administering a system of sentence credits, established in  
14 accordance with Section 3-6-3, subject to review by the  
15 Prisoner Review Board.

16 (o) To administer the distribution of funds from the  
17 State Treasury to reimburse counties where State penal  
18 institutions are located for the payment of assistant  
19 state's attorneys' salaries under Section 4-2001 of the  
20 Counties Code.

21 (p) To exchange information with the Department of  
22 Human Services and the Department of Healthcare and Family  
23 Services for the purpose of verifying living arrangements  
24 and for other purposes directly connected with the  
25 administration of this Code and the Illinois Public Aid  
26 Code.

1 (q) To establish a diversion program.

2 The program shall provide a structured environment for  
3 selected technical parole or mandatory supervised release  
4 violators and committed persons who have violated the  
5 rules governing their conduct while in work release. This  
6 program shall not apply to those persons who have  
7 committed a new offense while serving on parole or  
8 mandatory supervised release or while committed to work  
9 release.

10 Elements of the program shall include, but shall not  
11 be limited to, the following:

12 (1) The staff of a diversion facility shall  
13 provide supervision in accordance with required  
14 objectives set by the facility.

15 (2) Participants shall be required to maintain  
16 employment.

17 (3) Each participant shall pay for room and board  
18 at the facility on a sliding-scale basis according to  
19 the participant's income.

20 (4) Each participant shall:

21 (A) provide restitution to victims in  
22 accordance with any court order;

23 (B) provide financial support to his  
24 dependents; and

25 (C) make appropriate payments toward any other  
26 court-ordered obligations.

1           (5) Each participant shall complete community  
2 service in addition to employment.

3           (6) Participants shall take part in such  
4 counseling, educational, and other programs as the  
5 Department may deem appropriate.

6           (7) Participants shall submit to drug and alcohol  
7 screening.

8           (8) The Department shall promulgate rules  
9 governing the administration of the program.

10          (r) To enter into intergovernmental cooperation  
11 agreements under which persons in the custody of the  
12 Department may participate in a county impact  
13 incarceration program established under Section 3-6038 or  
14 3-15003.5 of the Counties Code.

15          (r-5) (Blank).

16          (r-10) To systematically and routinely identify with  
17 respect to each streetgang active within the correctional  
18 system: (1) each active gang; (2) every existing  
19 inter-gang affiliation or alliance; and (3) the current  
20 leaders in each gang. The Department shall promptly  
21 segregate leaders from inmates who belong to their gangs  
22 and allied gangs. "Segregate" means no physical contact  
23 and, to the extent possible under the conditions and space  
24 available at the correctional facility, prohibition of  
25 visual and sound communication. For the purposes of this  
26 paragraph (r-10), "leaders" means persons who:

1 (i) are members of a criminal streetgang;

2 (ii) with respect to other individuals within the  
3 streetgang, occupy a position of organizer,  
4 supervisor, or other position of management or  
5 leadership; and

6 (iii) are actively and personally engaged in  
7 directing, ordering, authorizing, or requesting  
8 commission of criminal acts by others, which are  
9 punishable as a felony, in furtherance of streetgang  
10 related activity both within and outside of the  
11 Department of Corrections.

12 "Streetgang", "gang", and "streetgang related" have the  
13 meanings ascribed to them in Section 10 of the Illinois  
14 Streetgang Terrorism Omnibus Prevention Act.

15 (s) To operate a super-maximum security institution,  
16 in order to manage and supervise inmates who are  
17 disruptive or dangerous and provide for the safety and  
18 security of the staff and the other inmates.

19 (t) To monitor any unprivileged conversation or any  
20 unprivileged communication, whether in person or by mail,  
21 telephone, or other means, between an inmate who, before  
22 commitment to the Department, was a member of an organized  
23 gang and any other person without the need to show cause or  
24 satisfy any other requirement of law before beginning the  
25 monitoring, except as constitutionally required. The  
26 monitoring may be by video, voice, or other method of

1 recording or by any other means. As used in this  
2 subdivision (1)(t), "organized gang" has the meaning  
3 ascribed to it in Section 10 of the Illinois Streetgang  
4 Terrorism Omnibus Prevention Act.

5 As used in this subdivision (1)(t), "unprivileged  
6 conversation" or "unprivileged communication" means a  
7 conversation or communication that is not protected by any  
8 privilege recognized by law or by decision, rule, or order  
9 of the Illinois Supreme Court.

10 (u) To establish a Women's and Children's Pre-release  
11 Community Supervision Program for the purpose of providing  
12 housing and services to eligible female inmates, as  
13 determined by the Department, and their newborn and young  
14 children.

15 (u-5) To issue an order, whenever a person committed  
16 to the Department absconds or absents himself or herself,  
17 without authority to do so, from any facility or program  
18 to which he or she is assigned. The order shall be  
19 certified by the Director, the Supervisor of the  
20 Apprehension Unit, or any person duly designated by the  
21 Director, with the seal of the Department affixed. The  
22 order shall be directed to all sheriffs, coroners, and  
23 police officers, or to any particular person named in the  
24 order. Any order issued pursuant to this subdivision  
25 (1)(u-5) shall be sufficient warrant for the officer or  
26 person named in the order to arrest and deliver the

1 committed person to the proper correctional officials and  
2 shall be executed the same as criminal process.

3 (u-6) To appoint a point of contact person who shall  
4 receive suggestions, complaints, or other requests to the  
5 Department from visitors to Department institutions or  
6 facilities and from other members of the public.

7 (v) To do all other acts necessary to carry out the  
8 provisions of this Chapter.

9 (2) The Department of Corrections shall by January 1,  
10 1998, consider building and operating a correctional facility  
11 within 100 miles of a county of over 2,000,000 inhabitants,  
12 especially a facility designed to house juvenile participants  
13 in the impact incarceration program.

14 (3) When the Department lets bids for contracts for  
15 medical services to be provided to persons committed to  
16 Department facilities by a health maintenance organization,  
17 medical service corporation, or other health care provider,  
18 the bid may only be let to a health care provider that has  
19 obtained an irrevocable letter of credit or performance bond  
20 issued by a company whose bonds have an investment grade or  
21 higher rating by a bond rating organization.

22 (3.5) If the Department has a contract with a pharmacy  
23 benefit manager or a contract with an insurance company,  
24 health maintenance organization, limited health service  
25 organization, administrative services organization, or any  
26 other managed care entity or health insurance issuer where a

1 pharmacy benefit manager administers the provider's coverage  
2 of, payment for, or formulary design for drugs necessary to  
3 safeguard the minor's life or health, the contract with the  
4 pharmacy benefit manager and the pharmacy benefit manager's  
5 activities shall be subject to Article XXXIIB of the Illinois  
6 Insurance Code and the authority of the Director of Insurance  
7 to enforce such provisions. The provider shall have all the  
8 rights of a plan sponsor under those provisions.

9 (4) When the Department lets bids for contracts for food  
10 or commissary services to be provided to Department  
11 facilities, the bid may only be let to a food or commissary  
12 services provider that has obtained an irrevocable letter of  
13 credit or performance bond issued by a company whose bonds  
14 have an investment grade or higher rating by a bond rating  
15 organization.

16 (5) On and after the date 6 months after August 16, 2013  
17 (the effective date of Public Act 98-488), as provided in the  
18 Executive Order 1 (2012) Implementation Act, all of the  
19 powers, duties, rights, and responsibilities related to State  
20 healthcare purchasing under this Code that were transferred  
21 from the Department of Corrections to the Department of  
22 Healthcare and Family Services by Executive Order 3 (2005) are  
23 transferred back to the Department of Corrections; however,  
24 powers, duties, rights, and responsibilities related to State  
25 healthcare purchasing under this Code that were exercised by  
26 the Department of Corrections before the effective date of

1 Executive Order 3 (2005) but that pertain to individuals  
2 resident in facilities operated by the Department of Juvenile  
3 Justice are transferred to the Department of Juvenile Justice.

4 (6) The Department of Corrections shall provide lactation  
5 or nursing mothers rooms for personnel of the Department. The  
6 rooms shall be provided in each facility of the Department  
7 that employs nursing mothers. Each individual lactation room  
8 must:

9 (i) contain doors that lock;

10 (ii) have an "Occupied" sign for each door;

11 (iii) contain electrical outlets for plugging in  
12 breast pumps;

13 (iv) have sufficient lighting and ventilation;

14 (v) contain comfortable chairs;

15 (vi) contain a countertop or table for all necessary  
16 supplies for lactation;

17 (vii) contain a wastebasket and chemical cleaners to  
18 wash one's hands and to clean the surfaces of the  
19 countertop or table;

20 (viii) have a functional sink;

21 (ix) have a minimum of one refrigerator for storage of  
22 the breast milk; and

23 (x) receive routine daily maintenance.

24 (Source: P.A. 102-350, eff. 8-13-21; 102-535, eff. 1-1-22;  
25 102-538, eff. 8-20-21; 102-813, eff. 5-13-22; 102-1030, eff.  
26 5-27-22; 103-834, eff. 1-1-25.)

1           Section 35. The County Jail Act is amended by changing  
2 Section 17 as follows:

3           (730 ILCS 125/17) (from Ch. 75, par. 117)

4           Sec. 17. Bedding, clothing, fuel, and medical aid;  
5 reimbursement for medical expenses. The Warden of the jail  
6 shall furnish necessary bedding, clothing, fuel, and medical  
7 services for all committed persons under his charge, and keep  
8 an accurate account of the same. When services that result in  
9 qualified medical expenses are required by any person held in  
10 custody, the county, private hospital, physician or any public  
11 agency which provides such services shall be entitled to  
12 obtain reimbursement from the county for the cost of such  
13 services. The county board of a county may adopt an ordinance  
14 or resolution providing for reimbursement for the cost of  
15 those services at the Department of Healthcare and Family  
16 Services' rates for medical assistance. To the extent that  
17 such person is reasonably able to pay for such care, including  
18 reimbursement from any insurance program or from other medical  
19 benefit programs available to such person, he or she shall  
20 reimburse the county or arresting authority. If such person  
21 has already been determined eligible for medical assistance  
22 under the Illinois Public Aid Code at the time the person is  
23 detained, the cost of such services, to the extent such cost  
24 exceeds \$500, shall be reimbursed by the Department of

1 Healthcare and Family Services under that Code. A  
2 reimbursement under any public or private program authorized  
3 by this Section shall be paid to the county or arresting  
4 authority to the same extent as would have been obtained had  
5 the services been rendered in a non-custodial environment.

6 The sheriff or his or her designee may cause an  
7 application for medical assistance under the Illinois Public  
8 Aid Code to be completed for an arrestee who is a hospital  
9 inpatient. If such arrestee is determined eligible, he or she  
10 shall receive medical assistance under the Code for hospital  
11 inpatient services only. An arresting authority shall be  
12 responsible for any qualified medical expenses relating to the  
13 arrestee until such time as the arrestee is placed in the  
14 custody of the sheriff. However, the arresting authority shall  
15 not be so responsible if the arrest was made pursuant to a  
16 request by the sheriff. When medical expenses are required by  
17 any person held in custody, the county shall be entitled to  
18 obtain reimbursement from the County Jail Medical Costs Fund  
19 to the extent moneys are available from the Fund. To the extent  
20 that the person is reasonably able to pay for that care,  
21 including reimbursement from any insurance program or from  
22 other medical benefit programs available to the person, he or  
23 she shall reimburse the county.

24 For the purposes of this Section, "arresting authority"  
25 means a unit of local government, other than a county, which  
26 employs peace officers and whose peace officers have made the

1 arrest of a person. For the purposes of this Section,  
2 "qualified medical expenses" include medical and hospital  
3 services but do not include (i) expenses incurred for medical  
4 care or treatment provided to a person on account of a  
5 self-inflicted injury incurred prior to or in the course of an  
6 arrest, (ii) expenses incurred for medical care or treatment  
7 provided to a person on account of a health condition of that  
8 person which existed prior to the time of his or her arrest, or  
9 (iii) expenses for hospital inpatient services for arrestees  
10 enrolled for medical assistance under the Illinois Public Aid  
11 Code.

12 If a jail or a unit of local government operating the jail  
13 has a contract with a pharmacy benefit manager or a contract  
14 with an insurance company, health maintenance organization,  
15 limited health service organization, administrative services  
16 organization, or any other managed care organization or health  
17 insurance issuer where a pharmacy benefit manager administers  
18 coverage of, payment for, or formulary design for drugs  
19 necessary to safeguard the life or health of any person in  
20 custody, that contract and the pharmacy benefit manager's  
21 activities shall be subject to Article XXXIIB of the Illinois  
22 Insurance Code and the authority of the Director of Insurance  
23 to enforce such provisions. The jail or unit of local  
24 government shall have all the rights of a plan sponsor under  
25 those provisions.

26 (Source: P.A. 103-745, eff. 1-1-25.)

1           Section 99. Effective date. This Act takes effect on  
2   January 1, 2026, except that this Section and the changes to  
3   Section 513b3 of the Illinois Insurance Code take effect upon  
4   becoming law."