

HB3657



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3657

by Rep. Jaime M. Andrade, Jr.

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2

from Ch. 38, par. 1003-6-2

Amends the Unified Code of Corrections. Deletes provision that the Department of Corrections shall require the committed person receiving medical or dental services on a non-emergency basis to pay a \$5 co-payment to the Department for each visit for medical or dental services. Provides that neither the Department of Corrections nor the Department of Juvenile Justice may require a committed person or person committed to any facility operated by the Department of Juvenile Justice to pay any co-payment for receiving medical or dental services.

LRB101 08265 SLF 53331 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-6-2 as follows:

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

7 Sec. 3-6-2. Institutions and facility administration.

8 (a) Each institution and facility of the Department shall
9 be administered by a chief administrative officer appointed by
10 the Director. A chief administrative officer shall be
11 responsible for all persons assigned to the institution or
12 facility. The chief administrative officer shall administer
13 the programs of the Department for the custody and treatment of
14 such persons.

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

17 (c) The Director or Assistant Director shall have the
18 emergency powers to temporarily transfer individuals without
19 formal procedures to any State, county, municipal or regional
20 correctional or detention institution or facility in the State,
21 subject to the acceptance of such receiving institution or
22 facility, or to designate any reasonably secure place in the
23 State as such an institution or facility and to make transfers

1 thereto. However, transfers made under emergency powers shall
2 be reviewed as soon as practicable under Article 8, and shall
3 be subject to Section 5-905 of the Juvenile Court Act of 1987.
4 This Section shall not apply to transfers to the Department of
5 Human Services which are provided for under Section 3-8-5 or
6 Section 3-10-5.

7 (d) The Department shall provide educational programs for
8 all committed persons so that all persons have an opportunity
9 to attain the achievement level equivalent to the completion of
10 the twelfth grade in the public school system in this State.
11 Other higher levels of attainment shall be encouraged and
12 professional instruction shall be maintained wherever
13 possible. The Department may establish programs of mandatory
14 education and may establish rules and regulations for the
15 administration of such programs. A person committed to the
16 Department who, during the period of his or her incarceration,
17 participates in an educational program provided by or through
18 the Department and through that program is awarded or earns the
19 number of hours of credit required for the award of an
20 associate, baccalaureate, or higher degree from a community
21 college, college, or university located in Illinois shall
22 reimburse the State, through the Department, for the costs
23 incurred by the State in providing that person during his or
24 her incarceration with the education that qualifies him or her
25 for the award of that degree. The costs for which reimbursement
26 is required under this subsection shall be determined and

1 computed by the Department under rules and regulations that it
2 shall establish for that purpose. However, interest at the rate
3 of 6% per annum shall be charged on the balance of those costs
4 from time to time remaining unpaid, from the date of the
5 person's parole, mandatory supervised release, or release
6 constituting a final termination of his or her commitment to
7 the Department until paid.

8 (d-5) A person committed to the Department is entitled to
9 confidential testing for infection with human immunodeficiency
10 virus (HIV) and to counseling in connection with such testing,
11 with no copay to the committed person. A person committed to
12 the Department who has tested positive for infection with HIV
13 is entitled to medical care while incarcerated, counseling, and
14 referrals to support services, in connection with that positive
15 test result. Implementation of this subsection (d-5) is subject
16 to appropriation.

17 (e) A person committed to the Department who becomes in
18 need of medical or surgical treatment but is incapable of
19 giving consent thereto shall receive such medical or surgical
20 treatment by the chief administrative officer consenting on the
21 person's behalf. Before the chief administrative officer
22 consents, he or she shall obtain the advice of one or more
23 physicians licensed to practice medicine in all its branches in
24 this State. If such physician or physicians advise:

25 (1) that immediate medical or surgical treatment is
26 required relative to a condition threatening to cause

1 death, damage or impairment to bodily functions, or
2 disfigurement; and

3 (2) that the person is not capable of giving consent to
4 such treatment; the chief administrative officer may give
5 consent for such medical or surgical treatment, and such
6 consent shall be deemed to be the consent of the person for
7 all purposes, including, but not limited to, the authority
8 of a physician to give such treatment.

9 (e-5) If a physician providing medical care to a committed
10 person on behalf of the Department advises the chief
11 administrative officer that the committed person's mental or
12 physical health has deteriorated as a result of the cessation
13 of ingestion of food or liquid to the point where medical or
14 surgical treatment is required to prevent death, damage, or
15 impairment to bodily functions, the chief administrative
16 officer may authorize such medical or surgical treatment.

17 (f) In the event that the person requires medical care and
18 treatment at a place other than the institution or facility,
19 the person may be removed therefrom under conditions prescribed
20 by the Department. Neither the Department of Corrections nor
21 the Department of Juvenile Justice may require a committed
22 person or person committed to any facility operated by the
23 Department of Juvenile Justice, as set forth in Section
24 3-2.5-15, to pay any co-payment for receiving medical or dental
25 services. ~~The Department shall require the committed person~~
26 ~~receiving medical or dental services on a non emergency basis~~

1 ~~to pay a \$5 co-payment to the Department for each visit for~~
2 ~~medical or dental services. The amount of each co-payment shall~~
3 ~~be deducted from the committed person's individual account. A~~
4 ~~committed person who has a chronic illness, as defined by~~
5 ~~Department rules and regulations, shall be exempt from the \$5~~
6 ~~co-payment for treatment of the chronic illness. A committed~~
7 ~~person shall not be subject to a \$5 co-payment for follow up~~
8 ~~visits ordered by a physician, who is employed by, or contracts~~
9 ~~with, the Department. A committed person who is indigent is~~
10 ~~exempt from the \$5 co-payment and is entitled to receive~~
11 ~~medical or dental services on the same basis as a committed~~
12 ~~person who is financially able to afford the co-payment. For~~
13 ~~purposes of this Section only, "indigent" means a committed~~
14 ~~person who has \$20 or less in his or her Inmate Trust Fund at~~
15 ~~the time of such services and for the 30 days prior to such~~
16 ~~services. Notwithstanding any other provision in this~~
17 ~~subsection (f) to the contrary, any person committed to any~~
18 ~~facility operated by the Department of Juvenile Justice, as set~~
19 ~~forth in Section 3-2.5-15 of this Code, is exempt from the~~
20 ~~co-payment requirement for the duration of confinement in those~~
21 ~~facilities.~~

22 (f-5) The Department shall comply with the Health Care
23 Violence Prevention Act.

24 (g) Any person having sole custody of a child at the time
25 of commitment or any woman giving birth to a child after her
26 commitment, may arrange through the Department of Children and

1 Family Services for suitable placement of the child outside of
2 the Department of Corrections. The Director of the Department
3 of Corrections may determine that there are special reasons why
4 the child should continue in the custody of the mother until
5 the child is 6 years old.

6 (h) The Department may provide Family Responsibility
7 Services which may consist of, but not be limited to the
8 following:

9 (1) family advocacy counseling;

10 (2) parent self-help group;

11 (3) parenting skills training;

12 (4) parent and child overnight program;

13 (5) parent and child reunification counseling, either
14 separately or together, preceding the inmate's release;
15 and

16 (6) a prerelease reunification staffing involving the
17 family advocate, the inmate and the child's counselor, or
18 both and the inmate.

19 (i) (Blank).

20 (j) Any person convicted of a sex offense as defined in the
21 Sex Offender Management Board Act shall be required to receive
22 a sex offender evaluation prior to release into the community
23 from the Department of Corrections. The sex offender evaluation
24 shall be conducted in conformance with the standards and
25 guidelines developed under the Sex Offender Management Board
26 Act and by an evaluator approved by the Board.

1 (k) Any minor committed to the Department of Juvenile
2 Justice for a sex offense as defined by the Sex Offender
3 Management Board Act shall be required to undergo sex offender
4 treatment by a treatment provider approved by the Board and
5 conducted in conformance with the Sex Offender Management Board
6 Act.

7 (l) Prior to the release of any inmate committed to a
8 facility of the Department or the Department of Juvenile
9 Justice, the Department must provide the inmate with
10 appropriate information verbally, in writing, by video, or
11 other electronic means, concerning HIV and AIDS. The Department
12 shall develop the informational materials in consultation with
13 the Department of Public Health. At the same time, the
14 Department must also offer the committed person the option of
15 testing for infection with human immunodeficiency virus (HIV),
16 with no copayment for the test. Pre-test information shall be
17 provided to the committed person and informed consent obtained
18 as required in subsection (d) of Section 3 and Section 5 of the
19 AIDS Confidentiality Act. The Department may conduct opt-out
20 HIV testing as defined in Section 4 of the AIDS Confidentiality
21 Act. If the Department conducts opt-out HIV testing, the
22 Department shall place signs in English, Spanish and other
23 languages as needed in multiple, highly visible locations in
24 the area where HIV testing is conducted informing inmates that
25 they will be tested for HIV unless they refuse, and refusal or
26 acceptance of testing shall be documented in the inmate's

1 medical record. The Department shall follow procedures
2 established by the Department of Public Health to conduct HIV
3 testing and testing to confirm positive HIV test results. All
4 testing must be conducted by medical personnel, but pre-test
5 and other information may be provided by committed persons who
6 have received appropriate training. The Department, in
7 conjunction with the Department of Public Health, shall develop
8 a plan that complies with the AIDS Confidentiality Act to
9 deliver confidentially all positive or negative HIV test
10 results to inmates or former inmates. Nothing in this Section
11 shall require the Department to offer HIV testing to an inmate
12 who is known to be infected with HIV, or who has been tested
13 for HIV within the previous 180 days and whose documented HIV
14 test result is available to the Department electronically. The
15 testing provided under this subsection (1) shall consist of a
16 test approved by the Illinois Department of Public Health to
17 determine the presence of HIV infection, based upon
18 recommendations of the United States Centers for Disease
19 Control and Prevention. If the test result is positive, a
20 reliable supplemental test based upon recommendations of the
21 United States Centers for Disease Control and Prevention shall
22 be administered.

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

1 (m) The chief administrative officer of each institution or
2 facility of the Department shall make a room in the institution
3 or facility available for substance use disorder services to be
4 provided to committed persons on a voluntary basis. The
5 services shall be provided for one hour once a week at a time
6 specified by the chief administrative officer of the
7 institution or facility if the following conditions are met:

8 (1) the substance use disorder service contacts the
9 chief administrative officer to arrange the meeting;

10 (2) the committed person may attend the meeting for
11 substance use disorder services only if the committed
12 person uses pre-existing free time already available to the
13 committed person;

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

16 (4) the committed person is not given any additional
17 privileges to attend substance use disorder services;

18 (5) if the substance use disorder service does not
19 arrange for scheduling a meeting for that week, no
20 substance use disorder services shall be provided to the
21 committed person in the institution or facility for that
22 week;

23 (6) the number of committed persons who may attend a
24 substance use disorder meeting shall not exceed 40 during
25 any session held at the correctional institution or
26 facility;

1 (7) a volunteer seeking to provide substance use
2 disorder services under this subsection (m) must submit an
3 application to the Department of Corrections under
4 existing Department rules and the Department must review
5 the application within 60 days after submission of the
6 application to the Department; and

7 (8) each institution and facility of the Department
8 shall manage the substance use disorder services program
9 according to its own processes and procedures.

10 For the purposes of this subsection (m), "substance use
11 disorder services" means recovery services for persons with
12 substance use disorders provided by volunteers of recovery
13 support services recognized by the Department of Human
14 Services.

15 (Source: P.A. 100-759, eff. 1-1-19; 100-1051, eff. 1-1-19;
16 revised 10-3-18.)