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1 AMENDMENT TO SENATE BILL 3191

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3191 by replacing  
3 the title with the following:

4 "AN ACT in relation to health."; and

5

6 by replacing everything after the enacting clause with the  
7 following:

8 "Section 1. Short title. This Act may be cited as the  
9 African-American HIV/AIDS Response Act.

10 Section 5. Legislative finding. The General Assembly finds  
11 that HIV/AIDS in the African-American community is a crisis  
12 separate and apart from the overall issue of HIV/AIDS in other  
13 communities.

14 Section 10. African-American HIV/AIDS Response Officer. An  
15 African-American HIV/AIDS Response Officer, responsible for  
16 coordinating efforts to address the African-American AIDS  
17 crisis within his or her respective Office or Department and  
18 serving as a liaison to governmental and non-governmental  
19 entities beyond his or her respective Office or Department  
20 regarding the same, shall be designated in each of the  
21 following:

22 (1) The Office of the Governor.

23 (2) The Department of Human Services.

1 (3) The Department of Public Health.

2 (4) The Department of Corrections.

3 Section 15. State agencies; HIV testing.

4 (a) In this Section:

5 "High-risk community" means a community designated as  
6 high-risk by the Department of Public Health in rules.

7 "High-traffic facility" means a high-traffic facility as  
8 defined by the Department of Central Management Services in  
9 rules.

10 "State agency" means (i) any department of State government  
11 created under Section 5-15 of the Departments of State  
12 Government Law of the Civil Administrative Code of Illinois or  
13 (ii) the Office of the Secretary of State.

14 (b) The Department of Public Health shall coordinate the  
15 response to HIV/AIDS in the African-American community.

16 (c) A State agency that operates a facility that (i) is  
17 accessible to the public, (ii) is a high-traffic facility, and  
18 (iii) serves a high-risk community must provide the following  
19 in each such facility where space and security reasonably  
20 permit: space for free HIV counseling and antibody testing, in  
21 accordance with the AIDS Confidentiality Act and rules adopted  
22 by the Department of Public Health.

23 (d) Neither the State of Illinois nor any State agency  
24 supplying space for services authorized by this Section shall  
25 be liable for damages based on the provision of such space or  
26 claimed to result from any services performed in such space,  
27 except that this immunity does not apply in the case of willful  
28 and wanton misconduct.

29 Section 20. Rules.

30 (a) No later than January 15, 2005, the Department of  
31 Public Health shall issue proposed rules for designating  
32 high-risk communities and for implementing subsection (c) of

1 Section 15. The rules must include, but may not be limited to,  
2 a standard testing protocol, training for staff,  
3 community-based organization experience, and the removal and  
4 proper disposal of hazardous waste.

5 (b) No later than January 15, 2005, the Department of  
6 Central Management Services shall issue proposed rules  
7 defining high-traffic facilities.

8 Section 90. The Illinois Public Aid Code is amended by  
9 changing Sections 5-2 and 9A-4 and by adding Section 5-5.04 as  
10 follows:

11 (305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

12 Sec. 5-2. Classes of Persons Eligible. Medical assistance  
13 under this Article shall be available to any of the following  
14 classes of persons in respect to whom a plan for coverage has  
15 been submitted to the Governor by the Illinois Department and  
16 approved by him:

17 1. Recipients of basic maintenance grants under Articles  
18 III and IV.

19 2. Persons otherwise eligible for basic maintenance under  
20 Articles III and IV but who fail to qualify thereunder on the  
21 basis of need, and who have insufficient income and resources  
22 to meet the costs of necessary medical care, including but not  
23 limited to the following:

24 (a) All persons otherwise eligible for basic  
25 maintenance under Article III but who fail to qualify under  
26 that Article on the basis of need and who meet either of  
27 the following requirements:

28 (i) their income, as determined by the Illinois  
29 Department in accordance with any federal  
30 requirements, is equal to or less than 70% in fiscal  
31 year 2001, equal to or less than 85% in fiscal year  
32 2002 and until a date to be determined by the

1 Department by rule, and equal to or less than 100%  
2 beginning on the date determined by the Department by  
3 rule, of the nonfarm income official poverty line, as  
4 defined by the federal Office of Management and Budget  
5 and revised annually in accordance with Section 673(2)  
6 of the Omnibus Budget Reconciliation Act of 1981,  
7 applicable to families of the same size; or

8 (ii) their income, after the deduction of costs  
9 incurred for medical care and for other types of  
10 remedial care, is equal to or less than 70% in fiscal  
11 year 2001, equal to or less than 85% in fiscal year  
12 2002 and until a date to be determined by the  
13 Department by rule, and equal to or less than 100%  
14 beginning on the date determined by the Department by  
15 rule, of the nonfarm income official poverty line, as  
16 defined in item (i) of this subparagraph (a).

17 (b) All persons who would be determined eligible for  
18 such basic maintenance under Article IV by disregarding the  
19 maximum earned income permitted by federal law.

20 3. Persons who would otherwise qualify for Aid to the  
21 Medically Indigent under Article VII.

22 4. Persons not eligible under any of the preceding  
23 paragraphs who fall sick, are injured, or die, not having  
24 sufficient money, property or other resources to meet the costs  
25 of necessary medical care or funeral and burial expenses.

26 5. (a) Women during pregnancy, after the fact of pregnancy  
27 has been determined by medical diagnosis, and during the  
28 60-day period beginning on the last day of the pregnancy,  
29 together with their infants and children born after  
30 September 30, 1983, whose income and resources are  
31 insufficient to meet the costs of necessary medical care to  
32 the maximum extent possible under Title XIX of the Federal  
33 Social Security Act.

34 (b) The Illinois Department and the Governor shall

1 provide a plan for coverage of the persons eligible under  
2 paragraph 5(a) by April 1, 1990. Such plan shall provide  
3 ambulatory prenatal care to pregnant women during a  
4 presumptive eligibility period and establish an income  
5 eligibility standard that is equal to 133% of the nonfarm  
6 income official poverty line, as defined by the federal  
7 Office of Management and Budget and revised annually in  
8 accordance with Section 673(2) of the Omnibus Budget  
9 Reconciliation Act of 1981, applicable to families of the  
10 same size, provided that costs incurred for medical care  
11 are not taken into account in determining such income  
12 eligibility.

13 (c) The Illinois Department may conduct a  
14 demonstration in at least one county that will provide  
15 medical assistance to pregnant women, together with their  
16 infants and children up to one year of age, where the  
17 income eligibility standard is set up to 185% of the  
18 nonfarm income official poverty line, as defined by the  
19 federal Office of Management and Budget. The Illinois  
20 Department shall seek and obtain necessary authorization  
21 provided under federal law to implement such a  
22 demonstration. Such demonstration may establish resource  
23 standards that are not more restrictive than those  
24 established under Article IV of this Code.

25 6. Persons under the age of 18 who fail to qualify as  
26 dependent under Article IV and who have insufficient income and  
27 resources to meet the costs of necessary medical care to the  
28 maximum extent permitted under Title XIX of the Federal Social  
29 Security Act.

30 7. Persons who are under 21 years of age and would qualify  
31 as disabled as defined under the Federal Supplemental Security  
32 Income Program, provided medical service for such persons would  
33 be eligible for Federal Financial Participation, and provided  
34 the Illinois Department determines that:

1 (a) the person requires a level of care provided by a  
2 hospital, skilled nursing facility, or intermediate care  
3 facility, as determined by a physician licensed to practice  
4 medicine in all its branches;

5 (b) it is appropriate to provide such care outside of  
6 an institution, as determined by a physician licensed to  
7 practice medicine in all its branches;

8 (c) the estimated amount which would be expended for  
9 care outside the institution is not greater than the  
10 estimated amount which would be expended in an institution.

11 8. Persons who become ineligible for basic maintenance  
12 assistance under Article IV of this Code in programs  
13 administered by the Illinois Department due to employment  
14 earnings and persons in assistance units comprised of adults  
15 and children who become ineligible for basic maintenance  
16 assistance under Article VI of this Code due to employment  
17 earnings. The plan for coverage for this class of persons  
18 shall:

19 (a) extend the medical assistance coverage for up to 12  
20 months following termination of basic maintenance  
21 assistance; and

22 (b) offer persons who have initially received 6 months  
23 of the coverage provided in paragraph (a) above, the option  
24 of receiving an additional 6 months of coverage, subject to  
25 the following:

26 (i) such coverage shall be pursuant to provisions  
27 of the federal Social Security Act;

28 (ii) such coverage shall include all services  
29 covered while the person was eligible for basic  
30 maintenance assistance;

31 (iii) no premium shall be charged for such  
32 coverage; and

33 (iv) such coverage shall be suspended in the event  
34 of a person's failure without good cause to file in a

1           timely fashion reports required for this coverage  
2           under the Social Security Act and coverage shall be  
3           reinstated upon the filing of such reports if the  
4           person remains otherwise eligible.

5           9. Persons with acquired immunodeficiency syndrome (AIDS)  
6           or with AIDS-related conditions with respect to whom there has  
7           been a determination that but for home or community-based  
8           services such individuals would require the level of care  
9           provided in an inpatient hospital, skilled nursing facility or  
10          intermediate care facility the cost of which is reimbursed  
11          under this Article. Assistance shall be provided to such  
12          persons to the maximum extent permitted under Title XIX of the  
13          Federal Social Security Act.

14          10. Participants in the long-term care insurance  
15          partnership program established under the Partnership for  
16          Long-Term Care Act who meet the qualifications for protection  
17          of resources described in Section 25 of that Act.

18          11. Persons with disabilities who are employed and eligible  
19          for Medicaid, pursuant to Section 1902(a)(10)(A)(ii)(xv) of  
20          the Social Security Act, as provided by the Illinois Department  
21          by rule.

22          12. Subject to federal approval, persons who are eligible  
23          for medical assistance coverage under applicable provisions of  
24          the federal Social Security Act and the federal Breast and  
25          Cervical Cancer Prevention and Treatment Act of 2000. Those  
26          eligible persons are defined to include, but not be limited to,  
27          the following persons:

28               (1) persons who have been screened for breast or  
29               cervical cancer under the U.S. Centers for Disease Control  
30               and Prevention Breast and Cervical Cancer Program  
31               established under Title XV of the federal Public Health  
32               Services Act in accordance with the requirements of Section  
33               1504 of that Act as administered by the Illinois Department  
34               of Public Health; and

1           (2) persons whose screenings under the above program  
2           were funded in whole or in part by funds appropriated to  
3           the Illinois Department of Public Health for breast or  
4           cervical cancer screening.

5           "Medical assistance" under this paragraph 12 shall be identical  
6           to the benefits provided under the State's approved plan under  
7           Title XIX of the Social Security Act. The Department must  
8           request federal approval of the coverage under this paragraph  
9           12 within 30 days after the effective date of this amendatory  
10          Act of the 92nd General Assembly.

11          13. Subject to federal approval, persons living with  
12          HIV/AIDS who are not otherwise eligible under this Article and  
13          who qualify for services covered under Section 5-5.04 as  
14          provided by the Illinois Department by rule.

15          The Illinois Department and the Governor shall provide a  
16          plan for coverage of the persons eligible under paragraph 7 as  
17          soon as possible after July 1, 1984.

18          The eligibility of any such person for medical assistance  
19          under this Article is not affected by the payment of any grant  
20          under the Senior Citizens and Disabled Persons Property Tax  
21          Relief and Pharmaceutical Assistance Act or any distributions  
22          or items of income described under subparagraph (X) of  
23          paragraph (2) of subsection (a) of Section 203 of the Illinois  
24          Income Tax Act. The Department shall by rule establish the  
25          amounts of assets to be disregarded in determining eligibility  
26          for medical assistance, which shall at a minimum equal the  
27          amounts to be disregarded under the Federal Supplemental  
28          Security Income Program. The amount of assets of a single  
29          person to be disregarded shall not be less than \$2,000, and the  
30          amount of assets of a married couple to be disregarded shall  
31          not be less than \$3,000.

32          To the extent permitted under federal law, any person found  
33          guilty of a second violation of Article VIIIA shall be  
34          ineligible for medical assistance under this Article, as



1 provided in Section 8A-8.

2 The eligibility of any person for medical assistance under  
3 this Article shall not be affected by the receipt by the person  
4 of donations or benefits from fundraisers held for the person  
5 in cases of serious illness, as long as neither the person nor  
6 members of the person's family have actual control over the  
7 donations or benefits or the disbursement of the donations or  
8 benefits.

9 (Source: P.A. 92-16, eff. 6-28-01; 92-47, eff. 7-3-01; 92-597,  
10 eff. 6-28-02; 93-20, eff. 6-20-03.)

11 (305 ILCS 5/5-5.04 new)

12 Sec. 5-5.04. Persons living with HIV/AIDS. The Department  
13 of Public Aid shall seek federal approval to expand access to  
14 health care for persons living with HIV/AIDS. The Department  
15 shall adopt rules for this program.

16 (305 ILCS 5/9A-4) (from Ch. 23, par. 9A-4)

17 Sec. 9A-4. Participation.

18 (a) Except for those exempted under subsection (b) below,  
19 and to the extent resources permit, the Illinois Department as  
20 a condition of eligibility for public aid, may, as provided by  
21 rule, require all recipients to participate in an education,  
22 training, and employment program, which shall include  
23 accepting suitable employment and refraining from terminating  
24 employment or reducing earnings without good cause.

25 (b) Recipients shall be exempt from the requirement of  
26 participation in the education, training, and employment  
27 program in the following circumstances:

28 (1) the ~~The~~ recipient is a person over age 60; ~~or~~

29 (2) the ~~The~~ recipient is a person with a child under  
30 age one; or

31 (3) a physician, licensed to practice medicine in all  
32 its branches under the Medical Practice Act of 1987,

1 determines that, in his or her best clinical judgment and  
2 based on the particular facts of the case before him or  
3 her, (i) participation may threaten the life or health of  
4 the recipient or (ii) the recipient has a temporary  
5 incapacity that is health-related in whole or in part. The  
6 physician shall specify the period of time for which the  
7 recipient is to be exempt, not to exceed 6 months, and  
8 shall certify his or her judgment and the underlying facts  
9 considered in reaching a determination in writing on a form  
10 prescribed by the Illinois Department by rule.

11 (Source: P.A. 89-6, eff. 3-6-95; 90-17, eff. 7-1-97.)".