

# HB6226



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

**HB6226**

by Rep. Bill Mitchell - C.D. Davidsmeyer

### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2

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

Amends the Unified Code of Corrections. Provides that the Department of Corrections shall not prescribe to an inmate the Hepatitis C medication Sofosbuvir (brand name Sovaldi). Effective immediately.

LRB098 21083 RLC 58849 b

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. The Department shall require the committed  
21 person receiving medical or dental services on a non-emergency  
22 basis to pay a \$5 co-payment to the Department for each visit  
23 for medical or dental services. The amount of each co-payment  
24 shall be deducted from the committed person's individual  
25 account. A committed person who has a chronic illness, as  
26 defined by Department rules and regulations, shall be exempt

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

17 (g) Any person having sole custody of a child at the time  
18 of commitment or any woman giving birth to a child after her  
19 commitment, may arrange through the Department of Children and  
20 Family Services for suitable placement of the child outside of  
21 the Department of Corrections. The Director of the Department  
22 of Corrections may determine that there are special reasons why  
23 the child should continue in the custody of the mother until  
24 the child is 6 years old.

25 (h) The Department may provide Family Responsibility  
26 Services which may consist of, but not be limited to the

1 following:

2 (1) family advocacy counseling;

3 (2) parent self-help group;

4 (3) parenting skills training;

5 (4) parent and child overnight program;

6 (5) parent and child reunification counseling, either  
7 separately or together, preceding the inmate's release;  
8 and

9 (6) a prerelease reunification staffing involving the  
10 family advocate, the inmate and the child's counselor, or  
11 both and the inmate.

12 (i) (Blank).

13 (j) Any person convicted of a sex offense as defined in the  
14 Sex Offender Management Board Act shall be required to receive  
15 a sex offender evaluation prior to release into the community  
16 from the Department of Corrections. The sex offender evaluation  
17 shall be conducted in conformance with the standards and  
18 guidelines developed under the Sex Offender Management Board  
19 Act and by an evaluator approved by the Board.

20 (k) Any minor committed to the Department of Juvenile  
21 Justice for a sex offense as defined by the Sex Offender  
22 Management Board Act shall be required to undergo sex offender  
23 treatment by a treatment provider approved by the Board and  
24 conducted in conformance with the Sex Offender Management Board  
25 Act.

26 (l) Prior to the release of any inmate committed to a

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



1 a plan that complies with the AIDS Confidentiality Act to  
2 deliver confidentially all positive or negative HIV test  
3 results to inmates or former inmates. Nothing in this Section  
4 shall require the Department to offer HIV testing to an inmate  
5 who is known to be infected with HIV, or who has been tested  
6 for HIV within the previous 180 days and whose documented HIV  
7 test result is available to the Department electronically. The  
8 testing provided under this subsection (1) shall consist of a  
9 test approved by the Illinois Department of Public Health to  
10 determine the presence of HIV infection, based upon  
11 recommendations of the United States Centers for Disease  
12 Control and Prevention. If the test result is positive, a  
13 reliable supplemental test based upon recommendations of the  
14 United States Centers for Disease Control and Prevention shall  
15 be administered.

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

20 (m) The chief administrative officer of each institution or  
21 facility of the Department shall make a room in the institution  
22 or facility available for addiction recovery services to be  
23 provided to committed persons on a voluntary basis. The  
24 services shall be provided for one hour once a week at a time  
25 specified by the chief administrative officer of the  
26 institution or facility if the following conditions are met:

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

3           (2) the committed person may attend the meeting for  
4 addiction recovery services only if the committed person  
5 uses pre-existing free time already available to the  
6 committed person;

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

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

11           (5) if the addiction recovery service does not arrange  
12 for scheduling a meeting for that week, no addiction  
13 recovery services shall be provided to the committed person  
14 in the institution or facility for that week;

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

18           (7) a volunteer seeking to provide addiction recovery  
19 services under this subsection (m) must submit an  
20 application to the Department of Corrections under  
21 existing Department rules and the Department must review  
22 the application within 60 days after submission of the  
23 application to the Department; and

24           (8) each institution and facility of the Department  
25 shall manage the addiction recovery services program  
26 according to its own processes and procedures.

1           For the purposes of this subsection (m), "addiction  
2 recovery services" means recovery services for alcoholics and  
3 addicts provided by volunteers of recovery support services  
4 recognized by the Department of Human Services.

5           (n) The Department shall not prescribe to an inmate the  
6 Hepatitis C medication Sofosbuvir (brand name Sovaldi).

7           (Source: P.A. 96-284, eff. 1-1-10; 97-244, eff. 8-4-11; 97-323,  
8 eff. 8-12-11; 97-562, eff. 1-1-12; 97-802, eff. 7-13-12;  
9 97-813, eff. 7-13-12.)

10           Section 99. Effective date. This Act takes effect upon  
11 becoming law.