

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 3-2-2 as follows:

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

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

8 (1) In addition to the powers, duties, and
9 responsibilities which are otherwise provided by law, the
10 Department shall have the following powers:

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

17 (b) To develop and maintain reception and evaluation
18 units for purposes of analyzing the custody and
19 rehabilitation needs of persons committed to it and to
20 assign such persons to institutions and programs under its
21 control or transfer them to other appropriate agencies. In
22 consultation with the Department of Alcoholism and
23 Substance Abuse (now the Department of Human Services),

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

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

23 (b-5) To develop, in consultation with the Illinois
24 State Police, a program for tracking and evaluating each
25 inmate from commitment through release for recording his
26 or her gang affiliations, activities, or ranks.

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

14 Pursuant to its power to establish new institutions
15 and facilities, the Department may authorize the
16 Department of Central Management Services to accept bids
17 from counties and municipalities for the construction,
18 remodeling, or conversion of a structure to be leased to
19 the Department of Corrections for the purposes of its
20 serving as a correctional institution or facility. Such
21 construction, remodeling, or conversion may be financed
22 with revenue bonds issued pursuant to the Industrial
23 Building Revenue Bond Act by the municipality or county.
24 The lease specified in a bid shall be for a term of not
25 less than the time needed to retire any revenue bonds used
26 to finance the project, but not to exceed 40 years. The

1 lease may grant to the State the option to purchase the
2 structure outright.

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

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

23 (d) To develop and maintain programs of control,
24 rehabilitation, and employment of committed persons within
25 its institutions.

26 (d-5) To provide a pre-release job preparation program

1 for inmates at Illinois adult correctional centers.

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

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

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

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

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

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

1 procedures would provide evidence that such violations
2 have occurred.

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

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

24 (j) To cooperate with other departments and agencies
25 and with local communities for the development of
26 standards and programs for better correctional services in

1 this State.

2 (k) To administer all moneys and properties of the
3 Department.

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

7 (1-5) (Blank).

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

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

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

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

25 (q) To establish a diversion program.

26 The program shall provide a structured environment for

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

8 Elements of the program shall include, but shall not
9 be limited to, the following:

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

13 (2) Participants shall be required to maintain
14 employment.

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

18 (4) Each participant shall:

19 (A) provide restitution to victims in
20 accordance with any court order;

21 (B) provide financial support to his
22 dependents; and

23 (C) make appropriate payments toward any other
24 court-ordered obligations.

25 (5) Each participant shall complete community
26 service in addition to employment.

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

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

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

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

13 (r-5) (Blank).

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

25 (i) are members of a criminal streetgang;

26 (ii) with respect to other individuals within the

1 streetgang, occupy a position of organizer,
2 supervisor, or other position of management or
3 leadership; and

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

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

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

17 (t) To monitor any unprivileged conversation or any
18 unprivileged communication, whether in person or by mail,
19 telephone, or other means, between an inmate who, before
20 commitment to the Department, was a member of an organized
21 gang and any other person without the need to show cause or
22 satisfy any other requirement of law before beginning the
23 monitoring, except as constitutionally required. The
24 monitoring may be by video, voice, or other method of
25 recording or by any other means. As used in this
26 subdivision (1)(t), "organized gang" has the meaning

1 ascribed to it in Section 10 of the Illinois Streetgang
2 Terrorism Omnibus Prevention Act.

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

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

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

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

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

7 (2) The Department of Corrections shall by January 1,
8 1998, consider building and operating a correctional facility
9 within 100 miles of a county of over 2,000,000 inhabitants,
10 especially a facility designed to house juvenile participants
11 in the impact incarceration program.

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

20 (4) When the Department lets bids for contracts for food
21 or commissary services to be provided to Department
22 facilities, the bid may only be let to a food or commissary
23 services provider that has obtained an irrevocable letter of
24 credit or performance bond issued by a company whose bonds
25 have an investment grade or higher rating by a bond rating
26 organization.

1 (5) On and after the date 6 months after August 16, 2013
2 (the effective date of Public Act 98-488), as provided in the
3 Executive Order 1 (2012) Implementation Act, all of the
4 powers, duties, rights, and responsibilities related to State
5 healthcare purchasing under this Code that were transferred
6 from the Department of Corrections to the Department of
7 Healthcare and Family Services by Executive Order 3 (2005) are
8 transferred back to the Department of Corrections; however,
9 powers, duties, rights, and responsibilities related to State
10 healthcare purchasing under this Code that were exercised by
11 the Department of Corrections before the effective date of
12 Executive Order 3 (2005) but that pertain to individuals
13 resident in facilities operated by the Department of Juvenile
14 Justice are transferred to the Department of Juvenile Justice.

15 (6) The Department of Corrections shall provide lactation
16 or nursing mothers rooms for personnel of the Department. The
17 rooms shall be provided in each facility of the Department
18 that employs nursing mothers. Each individual lactation room
19 must:

20 (i) contain doors that lock;

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

22 (iii) contain electrical outlets for plugging in
23 breast pumps;

24 (iv) have sufficient lighting and ventilation;

25 (v) contain comfortable chairs;

26 (vi) contain a countertop or table for all necessary

1 supplies for lactation;

2 (vii) contain a wastebasket and chemical cleaners to
3 wash one's hands and to clean the surfaces of the
4 countertop or table;

5 (viii) have a functional sink;

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

8 (x) receive routine daily maintenance.

9 (Source: P.A. 101-235, eff. 1-1-20; 102-350, eff. 8-13-21;
10 102-535, eff. 1-1-22; 102-538, eff. 8-20-21; 102-813, eff.
11 5-13-22; 102-1030, eff. 5-27-22.)