

HB1679



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1679

Introduced 2/22/2007, by Rep. Ron Stephens

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-2-2

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

Amends the Unified Code of Corrections. Provides that all nurses registered or licensed under the Nursing and Advanced Practice Nursing Act performing services for the Department of Corrections on a contractual basis as of the effective date of this amendatory Act shall become employees of the Department on the date immediately following the effective date of this amendatory Act.

LRB095 09012 RLC 29203 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 3-2-2 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 responsibilities
9 which are otherwise provided by law, the Department shall have
10 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 aliens
14 over whom the Office of the Federal Detention Trustee is
15 authorized to exercise the federal detention function for
16 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), the

1 Department of Corrections shall develop a master plan for
2 the screening and evaluation of persons committed to its
3 custody who have alcohol or drug abuse problems, and for
4 making appropriate treatment available to such persons;
5 the Department shall report to the General Assembly on such
6 plan not later than April 1, 1987. The maintenance and
7 implementation of such plan shall be contingent upon the
8 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 Department
24 of State Police, a program for tracking and evaluating each
25 inmate from commitment through release for recording his or
26 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 into
7 an agreement of the type described in subsection (d) of
8 Section 405-300 of the Department of Central Management
9 Services Law (20 ILCS 405/405-300). The Department shall
10 designate those institutions which shall constitute the
11 State Penitentiary System.

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

26 Upon receipt of the bids, the Department may certify

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

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

20 (d) To develop and maintain programs of control,
21 rehabilitation and employment of committed persons within
22 its institutions.

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

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

1 (f) To establish in cooperation with the Department of
2 Transportation to supply a sufficient number of prisoners
3 for use by the Department of Transportation to clean up the
4 trash and garbage along State, county, township, or
5 municipal highways as designated by the Department of
6 Transportation. The Department of Corrections, at the
7 request of the Department of Transportation, shall furnish
8 such prisoners at least annually for a period to be agreed
9 upon between the Director of Corrections and the Director
10 of Transportation. The prisoners used on this program shall
11 be selected by the Director of Corrections on whatever
12 basis he deems proper in consideration of their term,
13 behavior and earned eligibility to participate in such
14 program - where they will be outside of the prison facility
15 but still in the custody of the Department of Corrections.
16 Prisoners convicted of first degree murder, or a Class X
17 felony, or armed violence, or aggravated kidnapping, or
18 criminal sexual assault, aggravated criminal sexual abuse
19 or a subsequent conviction for criminal sexual abuse, or
20 forcible detention, or arson, or a prisoner adjudged a
21 Habitual Criminal shall not be eligible for selection to
22 participate in such program. The prisoners shall remain as
23 prisoners in the custody of the Department of Corrections
24 and such Department shall furnish whatever security is
25 necessary. The Department of Transportation shall furnish
26 trucks and equipment for the highway cleanup program and

1 personnel to supervise and direct the program. Neither the
2 Department of Corrections nor the Department of
3 Transportation shall replace any regular employee with a
4 prisoner.

5 (g) To maintain records of persons committed to it and
6 to establish programs of research, statistics and
7 planning.

8 (h) To investigate the grievances of any person
9 committed to the Department, to inquire into any alleged
10 misconduct by employees or committed persons, and to
11 investigate the assets of committed persons to implement
12 Section 3-7-6 of this Code; and for these purposes it may
13 issue subpoenas and compel the attendance of witnesses and
14 the production of writings and papers, and may examine
15 under oath any witnesses who may appear before it; to also
16 investigate alleged violations of a parolee's or
17 releasee's conditions of parole or release; and for this
18 purpose it may issue subpoenas and compel the attendance of
19 witnesses and the production of documents only if there is
20 reason to believe that such procedures would provide
21 evidence that such violations have occurred.

22 If any person fails to obey a subpoena issued under
23 this subsection, the Director may apply to any circuit
24 court to secure compliance with the subpoena. The failure
25 to comply with the order of the court issued in response
26 thereto shall be punishable as contempt of court.

1 (i) To appoint and remove the chief administrative
2 officers, and administer programs of training and
3 development of personnel of the Department. Personnel
4 assigned by the Department to be responsible for the
5 custody and control of committed persons or to investigate
6 the alleged misconduct of committed persons or employees or
7 alleged violations of a parolee's or releasee's conditions
8 of parole shall be conservators of the peace for those
9 purposes, and shall have the full power of peace officers
10 outside of the facilities of the Department in the
11 protection, arrest, retaking and reconfining of committed
12 persons or where the exercise of such power is necessary to
13 the investigation of such misconduct or violations.

14 (j) To cooperate with other departments and agencies
15 and with local communities for the development of standards
16 and programs for better correctional services in this
17 State.

18 (k) To administer all moneys and properties of the
19 Department.

20 (l) To report annually to the Governor on the committed
21 persons, institutions and programs of the Department.

22 (1-5) In a confidential annual report to the Governor,
23 the Department shall identify all inmate gangs by
24 specifying each current gang's name, population and allied
25 gangs. The Department shall further specify the number of
26 top leaders identified by the Department for each gang

1 during the past year, and the measures taken by the
2 Department to segregate each leader from his or her gang
3 and allied gangs. The Department shall further report the
4 current status of leaders identified and segregated in
5 previous years. All leaders described in the report shall
6 be identified by inmate number or other designation to
7 enable tracking, auditing, and verification without
8 revealing the names of the leaders. Because this report
9 contains law enforcement intelligence information
10 collected by the Department, the report is confidential and
11 not subject to public disclosure.

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

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

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

23 (p) To exchange information with the Department of
24 Human Services and the Department of Healthcare and Family
25 Services for the purpose of verifying living arrangements
26 and for other purposes directly connected with the

1 administration of this Code and the Illinois Public Aid
2 Code.

3 (q) To establish a diversion program.

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

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

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

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

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

21 (4) Each participant shall:

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

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

26 (C) make appropriate payments toward any other

1 court-ordered obligations.

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

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

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

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

11 (r) To enter into intergovernmental cooperation
12 agreements under which persons in the custody of the
13 Department may participate in a county impact
14 incarceration program established under Section 3-6038 or
15 3-15003.5 of the Counties Code.

16 (r-5) (Blank).

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

1 "leaders" means persons who:

2 (i) are members of a criminal streetgang;

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

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

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

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

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

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

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

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

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

18 (2) The Department of Corrections shall by January 1, 1998,
19 consider building and operating a correctional facility within
20 100 miles of a county of over 2,000,000 inhabitants, especially
21 a facility designed to house juvenile participants in the
22 impact incarceration program.

23 (3) When the Department lets bids for contracts for medical
24 services to be provided to persons committed to Department
25 facilities by a health maintenance organization, medical
26 service corporation, or other health care provider, the bid may

1 only be let to a health care provider that has obtained an
2 irrevocable letter of credit or performance bond issued by a
3 company whose bonds are rated AAA by a bond rating
4 organization.

5 (3.5) All nurses registered or licensed under the Nursing
6 and Advanced Practice Nursing Act performing services for the
7 Department on a contractual basis as of the effective date of
8 this amendatory Act of the 95th General Assembly shall become
9 employees of the Department on the date immediately following
10 the effective date of this amendatory Act of the 95th General
11 Assembly.

12 (4) When the Department lets bids for contracts for food or
13 commissary services to be provided to Department facilities,
14 the bid may only be let to a food or commissary services
15 provider that has obtained an irrevocable letter of credit or
16 performance bond issued by a company whose bonds are rated AAA
17 by a bond rating organization.

18 (Source: P.A. 93-839, eff. 7-30-04; 94-696, eff. 6-1-06;
19 94-1067, eff. 8-1-06.)