

HB1236



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1236

Introduced 02/08/11, by Rep. Rita Mayfield

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2

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

Amends the Unified Code of Corrections. Provides that before the release of a committed person from an institution or facility of the Department of Corrections, the person shall receive a mental health evaluation. Provides that if the evaluation determines that the committed person is severely or profoundly mentally retarded and not functional, the committed person shall be referred to the Department of Human Services and only released directly into the Department's care or to a family member or other person who can provide care.

LRB097 06080 RLC 46153 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning corrections.

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 \$2 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 \$2 co-payment for treatment of the chronic illness. A
2 committed person shall not be subject to a \$2 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 \$2 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. Notwithstanding any other provision in this
9 subsection (f) to the contrary, any person committed to any
10 facility operated by the Department of Juvenile Justice, as set
11 forth in Section 3-2.5-15 of this Code, is exempt from the
12 co-payment requirement for the duration of confinement in those
13 facilities.

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

22 (h) The Department may provide Family Responsibility
23 Services which may consist of, but not be limited to the
24 following:

- 25 (1) family advocacy counseling;
26 (2) parent self-help group;

- 1 (3) parenting skills training;
 - 2 (4) parent and child overnight program;
 - 3 (5) parent and child reunification counseling, either
 - 4 separately or together, preceding the inmate's release;
 - 5 and
 - 6 (6) a prerelease reunification staffing involving the
 - 7 family advocate, the inmate and the child's counselor, or
 - 8 both and the inmate.
- 9 (i) Prior to the release of any inmate who has a documented
- 10 history of intravenous drug use, and upon the receipt of that
- 11 inmate's written informed consent, the Department shall
- 12 provide for the testing of such inmate for infection with human
- 13 immunodeficiency virus (HIV) and any other identified
- 14 causative agent of acquired immunodeficiency syndrome (AIDS).
- 15 The testing provided under this subsection shall consist of an
- 16 enzyme-linked immunosorbent assay (ELISA) test or such other
- 17 test as may be approved by the Illinois Department of Public
- 18 Health. If the test result is positive, the Western Blot Assay
- 19 or more reliable confirmatory test shall be administered. All
- 20 inmates tested in accordance with the provisions of this
- 21 subsection shall be provided with pre-test and post-test
- 22 counseling. Notwithstanding any provision of this subsection
- 23 to the contrary, the Department shall not be required to
- 24 conduct the testing and counseling required by this subsection
- 25 unless sufficient funds to cover all costs of such testing and
- 26 counseling are appropriated for that purpose by the General

1 Assembly.

2 (j) Any person convicted of a sex offense as defined in the
3 Sex Offender Management Board Act shall be required to receive
4 a sex offender evaluation prior to release into the community
5 from the Department of Corrections. The sex offender evaluation
6 shall be conducted in conformance with the standards and
7 guidelines developed under the Sex Offender Management Board
8 Act and by an evaluator approved by the Board.

9 (k) Any minor committed to the Department of Juvenile
10 Justice for a sex offense as defined by the Sex Offender
11 Management Board Act shall be required to undergo sex offender
12 treatment by a treatment provider approved by the Board and
13 conducted in conformance with the Sex Offender Management Board
14 Act.

15 (l) Prior to the release of any inmate, the Department must
16 provide the inmate with the option of testing for infection
17 with human immunodeficiency virus (HIV), as well as counseling
18 in connection with such testing, with no copayment for the
19 test. At the same time, the Department shall require each such
20 inmate to sign a form stating that the inmate has been informed
21 of his or her rights with respect to the testing required to be
22 offered under this subsection (l) and providing the inmate with
23 an opportunity to indicate either that he or she wants to be
24 tested or that he or she does not want to be tested. The
25 Department, in consultation with the Department of Public
26 Health, shall prescribe the contents of the form. The testing

1 provided under this subsection (1) shall consist of an
2 enzyme-linked immunosorbent assay (ELISA) test or any other
3 test approved by the Department of Public Health. If the test
4 result is positive, the Western Blot Assay or more reliable
5 confirmatory test shall be administered.

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

10 Implementation of this subsection (1) is subject to
11 appropriation.

12 (m) The chief administrative officer of each institution or
13 facility of the Department shall make a room in the institution
14 or facility available for addiction recovery services to be
15 provided to committed persons on a voluntary basis. The
16 services shall be provided for one hour once a week at a time
17 specified by the chief administrative officer of the
18 institution or facility if the following conditions are met:

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

21 (2) the committed person may attend the meeting for
22 addiction recovery services only if the committed person
23 uses pre-existing free time already available to the
24 committed person;

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

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

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

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

10 (7) a volunteer seeking to provide addiction recovery
11 services under this subsection (m) must submit an
12 application to the Department of Corrections under
13 existing Department rules and the Department must review
14 the application within 60 days after submission of the
15 application to the Department; and

16 (8) each institution and facility of the Department
17 shall manage the addiction recovery services program
18 according to its own processes and procedures.

19 For the purposes of this subsection (m), "addiction
20 recovery services" means recovery services for alcoholics and
21 addicts provided by volunteers of recovery support services
22 recognized by the Department of Human Services.

23 (n) Before the release of a committed person from an
24 institution or facility of the Department, the Department shall
25 have a mental health examination of the committed person
26 conducted by a psychiatrist or clinical psychologist approved

1 by the Department of Human Services. If the evaluation
2 determines that the committed person is a severely or
3 profoundly mentally retarded person as defined in Section
4 2-10.1 of the Criminal Code of 1961 and not functional, the
5 committed person shall be referred to the Department of Human
6 Services and only released directly into the Department's care
7 or to a family member or other person who can provide care.

8 (Source: P.A. 96-284, eff. 1-1-10.)