

HB3432



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3432

Introduced 2/24/2011, by Rep. Camille Y Lilly

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2

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

Amends the Unified Code of Corrections. Provides that a person committed to the Department of Corrections shall be tested (rather than entitled to testing) for infection with human immunodeficiency virus (HIV), unless the person opts out of testing under rules prescribed by the Department. Provides that the results of the testing shall be confidential. Provides that the provisions are subject to appropriation.

LRB097 10945 RLC 51526 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 shall be tested
9 ~~is entitled to confidential testing~~ for infection with human
10 immunodeficiency virus (HIV), unless the person opts out of
11 testing under rules prescribed by the Department. The results
12 of the testing shall be confidential. Implementation of this
13 subsection (d-5) is subject to appropriation.

14 (d-6) A person committed to the Department is entitled and
15 to counseling in connection with such testing prescribed in
16 subsection (d-5), with no copay to the committed person. A
17 person committed to the Department who has tested positive for
18 infection with HIV is entitled to medical care while
19 incarcerated, counseling, and referrals to support services,
20 in connection with that positive test result. Implementation of
21 this subsection (d-6) ~~(d-5)~~ is subject to appropriation.

22 (e) A person committed to the Department who becomes in
23 need of medical or surgical treatment but is incapable of
24 giving consent thereto shall receive such medical or surgical
25 treatment by the chief administrative officer consenting on the
26 person's behalf. Before the chief administrative officer

1 consents, he or she shall obtain the advice of one or more
2 physicians licensed to practice medicine in all its branches in
3 this State. If such physician or physicians advise:

4 (1) that immediate medical or surgical treatment is
5 required relative to a condition threatening to cause
6 death, damage or impairment to bodily functions, or
7 disfigurement; and

8 (2) that the person is not capable of giving consent to
9 such treatment; the chief administrative officer may give
10 consent for such medical or surgical treatment, and such
11 consent shall be deemed to be the consent of the person for
12 all purposes, including, but not limited to, the authority
13 of a physician to give such treatment.

14 (e-5) If a physician providing medical care to a committed
15 person on behalf of the Department advises the chief
16 administrative officer that the committed person's mental or
17 physical health has deteriorated as a result of the cessation
18 of ingestion of food or liquid to the point where medical or
19 surgical treatment is required to prevent death, damage, or
20 impairment to bodily functions, the chief administrative
21 officer may authorize such medical or surgical treatment.

22 (f) In the event that the person requires medical care and
23 treatment at a place other than the institution or facility,
24 the person may be removed therefrom under conditions prescribed
25 by the Department. The Department shall require the committed
26 person receiving medical or dental services on a non-emergency

1 basis to pay a \$2 co-payment to the Department for each visit
2 for medical or dental services. The amount of each co-payment
3 shall be deducted from the committed person's individual
4 account. A committed person who has a chronic illness, as
5 defined by Department rules and regulations, shall be exempt
6 from the \$2 co-payment for treatment of the chronic illness. A
7 committed person shall not be subject to a \$2 co-payment for
8 follow-up visits ordered by a physician, who is employed by, or
9 contracts with, the Department. A committed person who is
10 indigent is exempt from the \$2 co-payment and is entitled to
11 receive medical or dental services on the same basis as a
12 committed person who is financially able to afford the
13 co-payment. Notwithstanding any other provision in this
14 subsection (f) to the contrary, any person committed to any
15 facility operated by the Department of Juvenile Justice, as set
16 forth in Section 3-2.5-15 of this Code, is exempt from the
17 co-payment requirement for the duration of confinement in those
18 facilities.

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

1 (h) The Department may provide Family Responsibility
2 Services which may consist of, but not be limited to the
3 following:

4 (1) family advocacy counseling;

5 (2) parent self-help group;

6 (3) parenting skills training;

7 (4) parent and child overnight program;

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

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

14 (i) Prior to the release of any inmate who has a documented
15 history of intravenous drug use, and upon the receipt of that
16 inmate's written informed consent, the Department shall
17 provide for the testing of such inmate for infection with human
18 immunodeficiency virus (HIV) and any other identified
19 causative agent of acquired immunodeficiency syndrome (AIDS).
20 The testing provided under this subsection shall consist of an
21 enzyme-linked immunosorbent assay (ELISA) test or such other
22 test as may be approved by the Illinois Department of Public
23 Health. If the test result is positive, the Western Blot Assay
24 or more reliable confirmatory test shall be administered. All
25 inmates tested in accordance with the provisions of this
26 subsection shall be provided with pre-test and post-test

1 counseling. Notwithstanding any provision of this subsection
2 to the contrary, the Department shall not be required to
3 conduct the testing and counseling required by this subsection
4 unless sufficient funds to cover all costs of such testing and
5 counseling are appropriated for that purpose by the General
6 Assembly.

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

14 (k) Any minor committed to the Department of Juvenile
15 Justice for a sex offense as defined by the Sex Offender
16 Management Board Act shall be required to undergo sex offender
17 treatment by a treatment provider approved by the Board and
18 conducted in conformance with the Sex Offender Management Board
19 Act.

20 (l) Prior to the release of any inmate, the Department must
21 provide the inmate with the option of testing for infection
22 with human immunodeficiency virus (HIV), as well as counseling
23 in connection with such testing, with no copayment for the
24 test. At the same time, the Department shall require each such
25 inmate to sign a form stating that the inmate has been informed
26 of his or her rights with respect to the testing required to be

1 offered under this subsection (1) and providing the inmate with
2 an opportunity to indicate either that he or she wants to be
3 tested or that he or she does not want to be tested. The
4 Department, in consultation with the Department of Public
5 Health, shall prescribe the contents of the form. The testing
6 provided under this subsection (1) shall consist of an
7 enzyme-linked immunosorbent assay (ELISA) test or any other
8 test approved by the Department of Public Health. If the test
9 result is positive, the Western Blot Assay or more reliable
10 confirmatory test shall be administered.

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

15 Implementation of this subsection (1) is subject to
16 appropriation.

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

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

26 (2) the committed person may attend the meeting for

1 addiction recovery services only if the committed person
2 uses pre-existing free time already available to the
3 committed person;

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

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

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

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

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

21 (8) each institution and facility of the Department
22 shall manage the addiction recovery services program
23 according to its own processes and procedures.

24 For the purposes of this subsection (m), "addiction
25 recovery services" means recovery services for alcoholics and
26 addicts provided by volunteers of recovery support services

1 recognized by the Department of Human Services.

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