



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5939

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-2-2	from Ch. 38, par. 1003-2-2
730 ILCS 5/3-12-2	from Ch. 38, par. 1003-12-2
730 ILCS 5/3-12-5	from Ch. 38, par. 1003-12-5
730 ILCS 5/3-7-6 rep.	
735 ILCS 5/4-101	from Ch. 110, par. 4-101

Amends the Unified Code of Corrections. Repeals provision that committed persons shall be responsible to reimburse the Department of Corrections for the expenses incurred by their incarceration at a rate to be determined by the Department. Amends the Code of Civil Procedure to make conforming changes.

LRB099 17690 SLF 42049 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 Sections 3-2-2, 3-12-2, and 3-12-5 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 and, to inquire into any
10 alleged misconduct by employees or committed persons, ~~and~~
11 ~~to 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. This
14 subsection shall not apply to persons committed to the
15 Department of Juvenile Justice under the Juvenile Court Act
16 of 1987 on aftercare release.

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

21 (k) To administer all moneys and properties of the
22 Department.

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

25 (1-5) (Blank).

26 (m) To make all rules and regulations and exercise all

1 powers and duties vested by law in the Department.

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

6 (o) To administer the distribution of funds from the
7 State Treasury to reimburse counties where State penal
8 institutions are located for the payment of assistant
9 state's attorneys' salaries under Section 4-2001 of the
10 Counties Code.

11 (p) To exchange information with the Department of
12 Human Services and the Department of Healthcare and Family
13 Services for the purpose of verifying living arrangements
14 and for other purposes directly connected with the
15 administration of this Code and the Illinois Public Aid
16 Code.

17 (q) To establish a diversion program.

18 The program shall provide a structured environment for
19 selected technical parole or mandatory supervised release
20 violators and committed persons who have violated the rules
21 governing their conduct while in work release. This program
22 shall not apply to those persons who have committed a new
23 offense while serving on parole or mandatory supervised
24 release or while committed to work release.

25 Elements of the program shall include, but shall not be
26 limited to, the following:

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

4 (2) Participants shall be required to maintain
5 employment.

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

9 (4) Each participant shall:

10 (A) provide restitution to victims in
11 accordance with any court order;

12 (B) provide financial support to his
13 dependents; and

14 (C) make appropriate payments toward any other
15 court-ordered obligations.

16 (5) Each participant shall complete community
17 service in addition to employment.

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

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

23 (8) The Department shall promulgate rules
24 governing the administration of the program.

25 (r) To enter into intergovernmental cooperation
26 agreements under which persons in the custody of the

1 Department may participate in a county impact
2 incarceration program established under Section 3-6038 or
3 3-15003.5 of the Counties Code.

4 (r-5) (Blank).

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

16 (i) are members of a criminal streetgang;

17 (ii) with respect to other individuals within the
18 streetgang, occupy a position of organizer,
19 supervisor, or other position of management or
20 leadership; and

21 (iii) are actively and personally engaged in
22 directing, ordering, authorizing, or requesting
23 commission of criminal acts by others, which are
24 punishable as a felony, in furtherance of streetgang
25 related activity both within and outside of the
26 Department of Corrections.

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

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

8 (t) To monitor any unprivileged conversation or any
9 unprivileged communication, whether in person or by mail,
10 telephone, or other means, between an inmate who, before
11 commitment to the Department, was a member of an organized
12 gang and any other person without the need to show cause or
13 satisfy any other requirement of law before beginning the
14 monitoring, except as constitutionally required. The
15 monitoring may be by video, voice, or other method of
16 recording or by any other means. As used in this
17 subdivision (1)(t), "organized gang" has the meaning
18 ascribed to it in Section 10 of the Illinois Streetgang
19 Terrorism Omnibus Prevention Act.

20 As used in this subdivision (1)(t), "unprivileged
21 conversation" or "unprivileged communication" means a
22 conversation or communication that is not protected by any
23 privilege recognized by law or by decision, rule, or order
24 of the Illinois Supreme Court.

25 (u) To establish a Women's and Children's Pre-release
26 Community Supervision Program for the purpose of providing

1 housing and services to eligible female inmates, as
2 determined by the Department, and their newborn and young
3 children.

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

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

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

25 (3) When the Department lets bids for contracts for medical
26 services to be provided to persons committed to Department

1 facilities by a health maintenance organization, medical
2 service corporation, or other health care provider, the bid may
3 only be let to a health care provider that has obtained an
4 irrevocable letter of credit or performance bond issued by a
5 company whose bonds have an investment grade or higher rating
6 by a bond rating organization.

7 (4) When the Department lets bids for contracts for food or
8 commissary services to be provided to Department facilities,
9 the bid may only be let to a food or commissary services
10 provider that has obtained an irrevocable letter of credit or
11 performance bond issued by a company whose bonds have an
12 investment grade or higher rating by a bond rating
13 organization.

14 (5) On and after the date 6 months after August 16, 2013
15 (the effective date of Public Act 98-488), as provided in the
16 Executive Order 1 (2012) Implementation Act, all of the powers,
17 duties, rights, and responsibilities related to State
18 healthcare purchasing under this Code that were transferred
19 from the Department of Corrections to the Department of
20 Healthcare and Family Services by Executive Order 3 (2005) are
21 transferred back to the Department of Corrections; however,
22 powers, duties, rights, and responsibilities related to State
23 healthcare purchasing under this Code that were exercised by
24 the Department of Corrections before the effective date of
25 Executive Order 3 (2005) but that pertain to individuals
26 resident in facilities operated by the Department of Juvenile

1 Justice are transferred to the Department of Juvenile Justice.
2 (Source: P.A. 97-697, eff. 6-22-12; 97-800, eff. 7-13-12;
3 97-802, eff. 7-13-12; 98-463, eff. 8-16-13; 98-488, eff.
4 8-16-13; 98-558, eff. 1-1-14; 98-756, eff. 7-16-14.)

5 (730 ILCS 5/3-12-2) (from Ch. 38, par. 1003-12-2)
6 Sec. 3-12-2. Types of employment.

7 (a) The Department shall provide inmate workers for
8 Illinois Correctional Industries to work in programs
9 established to train and employ committed persons in the
10 production of food stuffs and finished goods and any articles,
11 materials or supplies for resale to State agencies and
12 authorized purchasers. It may also employ committed persons on
13 public works, buildings and property, the conservation of
14 natural resources of the State, anti-pollution or
15 environmental control projects, or for other public purposes,
16 for the maintenance of the Department's buildings and
17 properties and for the production of food or other necessities
18 for its programs. The Department may establish, maintain and
19 employ committed persons in the production of vehicle
20 registration plates. A committed person's labor shall not be
21 sold, contracted or hired out by the Department except under
22 this Article.

23 (b) Works of art, literature, handicraft or other items
24 produced by committed persons as an avocation and not as a
25 product of a work program of the Department may be sold to the

1 public under rules and regulations established by the
2 Department. The cost of selling such products may be deducted
3 from the proceeds, and the balance shall be credited to the
4 person's account under Section 3-4-3. ~~The Department shall~~
5 ~~notify the Attorney General of the existence of any proceeds~~
6 ~~which it believes should be applied towards a satisfaction, in~~
7 ~~whole or in part, of the person's incarceration costs.~~

8 (Source: P.A. 96-877, eff. 7-1-10; 96-943, eff. 7-1-10.)

9 (730 ILCS 5/3-12-5) (from Ch. 38, par. 1003-12-5)

10 Sec. 3-12-5. Compensation. Persons performing a work
11 assignment under subsection (a) of Section 3-12-2 may receive
12 wages under rules and regulations of the Department. In
13 determining rates of compensation, the Department shall
14 consider the effort, skill and economic value of the work
15 performed. Compensation may be given to persons who participate
16 in other programs of the Department. ~~Of the compensation earned~~
17 ~~pursuant to this Section, a portion, as determined by the~~
18 ~~Department, shall be used to offset the cost of the committed~~
19 ~~person's incarceration.~~ If the committed person files a lawsuit
20 determined frivolous under Article XXII of the Code of Civil
21 Procedure, 50% of the compensation shall be used to offset the
22 filing fees and costs of the lawsuit as provided in that
23 Article until all fees and costs are paid in full. All other
24 wages shall be deposited in the individual's account under
25 rules and regulations of the Department. ~~The Department shall~~

1 ~~notify the Attorney General of any compensation applied towards~~
2 ~~a satisfaction, in whole or in part, of the person's~~
3 ~~incarceration costs.~~

4 (Source: P.A. 94-1017, eff. 7-7-06.)

5 (730 ILCS 5/3-7-6 rep.)

6 Section 10. The Unified Code of Corrections is amended by
7 repealing Section 3-7-6.

8 Section 15. The Code of Civil Procedure is amended by
9 changing Section 4-101 as follows:

10 (735 ILCS 5/4-101) (from Ch. 110, par. 4-101)

11 Sec. 4-101. Cause. In any court having competent
12 jurisdiction, a creditor having a money claim, whether
13 liquidated or unliquidated, and whether sounding in contract or
14 tort, or based upon a statutory cause of action created by law
15 in favor of the People of the State of Illinois, or any agency
16 of the State, may have an attachment against the property of
17 his or her debtor, or that of any one or more of several
18 debtors, either at the time of commencement of the action or
19 thereafter, when the claim exceeds \$20, in any one of the
20 following cases:

21 1. Where the debtor is not a resident of this State.

22 2. When the debtor conceals himself or herself or
23 stands in defiance of an officer, so that process cannot be

1 served upon him or her.

2 3. Where the debtor has departed from this State with
3 the intention of having his or her effects removed from
4 this State.

5 4. Where the debtor is about to depart from this State
6 with the intention of having his or her effects removed
7 from this State.

8 5. Where the debtor is about to remove his or her
9 property from this State to the injury of such creditor.

10 6. Where the debtor has within 2 years preceding the
11 filing of the affidavit required, fraudulently conveyed or
12 assigned his or her effects, or a part thereof, so as to
13 hinder or delay his or her creditors.

14 7. Where the debtor has, within 2 years prior to the
15 filing of such affidavit, fraudulently concealed or
16 disposed of his or her property so as to hinder or delay
17 his or her creditors.

18 8. Where the debtor is about fraudulently to conceal,
19 assign, or otherwise dispose of his or her property or
20 effects, so as to hinder or delay his or her creditors.

21 9. Where the debt sued for was fraudulently contracted
22 on the part of the debtor. The statements of the debtor,
23 his or her agent or attorney, which constitute the fraud,
24 shall have been reduced to writing, and his or her
25 signature attached thereto, by himself or herself, agent or
26 attorney.

1 10. When the debtor is a person convicted of first
2 degree murder, a Class X felony, or aggravated kidnapping,
3 or found not guilty by reason of insanity or guilty but
4 mentally ill of first degree murder, a Class X felony, or
5 aggravated kidnapping, against the creditor and that crime
6 makes the creditor a "victim" under the Criminal Victims'
7 Asset Discovery Act.

8 11. (Blank). ~~When the debtor is referred by the~~
9 ~~Department of Corrections to the Attorney General under~~
10 ~~Section 3-7-6 of the Unified Code of Corrections to recover~~
11 ~~the expenses incurred as a result of that debtor's cost of~~
12 ~~incarceration.~~

13 (Source: P.A. 93-508, eff. 1-1-04.)