

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 (Text of Section before amendment by P.A. 101-235)

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

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

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

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

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

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

24 (b-5) To develop, in consultation with the Department
25 of State Police, a program for tracking and evaluating each
26 inmate from commitment through release for recording his or

1 her gang affiliations, activities, or ranks.

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

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

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

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

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

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

26 (d-10) To provide educational and visitation

1 opportunities to committed persons within its institutions
2 through temporary access to content-controlled tablets
3 that may be provided as a privilege to committed persons to
4 induce or reward compliance.

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

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

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

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

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

1 evidence that such violations have occurred.

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

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

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

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

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

5 (1-5) (Blank).

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

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

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

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

23 (q) To establish a diversion program.

24 The program shall provide a structured environment for
25 selected technical parole or mandatory supervised release
26 violators and committed persons who have violated the rules

1 governing their conduct while in work release. This program
2 shall not apply to those persons who have committed a new
3 offense while serving on parole or mandatory supervised
4 release or while committed to work release.

5 Elements of the program shall include, but shall not be
6 limited to, the following:

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

10 (2) Participants shall be required to maintain
11 employment.

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

15 (4) Each participant shall:

16 (A) provide restitution to victims in
17 accordance with any court order;

18 (B) provide financial support to his
19 dependents; and

20 (C) make appropriate payments toward any other
21 court-ordered obligations.

22 (5) Each participant shall complete community
23 service in addition to employment.

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

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

3 (8) The Department shall promulgate rules
4 governing the administration of the program.

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

10 (r-5) (Blank).

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

22 (i) are members of a criminal streetgang;

23 (ii) with respect to other individuals within the
24 streetgang, occupy a position of organizer,
25 supervisor, or other position of management or
26 leadership; and

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

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

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

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

26 As used in this subdivision (1)(t), "unprivileged

1 conversation" or "unprivileged communication" means a
2 conversation or communication that is not protected by any
3 privilege recognized by law or by decision, rule, or order
4 of the Illinois Supreme Court.

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

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

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

26 (2) The Department of Corrections shall by January 1, 1998,

1 consider building and operating a correctional facility within
2 100 miles of a county of over 2,000,000 inhabitants, especially
3 a facility designed to house juvenile participants in the
4 impact incarceration program.

5 (3) When the Department lets bids for contracts for medical
6 services to be provided to persons committed to Department
7 facilities by a health maintenance organization, medical
8 service corporation, or other health care provider, the bid may
9 only be let to a health care provider that has obtained an
10 irrevocable letter of credit or performance bond issued by a
11 company whose bonds have an investment grade or higher rating
12 by a bond rating organization.

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

20 (5) On and after the date 6 months after August 16, 2013
21 (the effective date of Public Act 98-488), as provided in the
22 Executive Order 1 (2012) Implementation Act, all of the powers,
23 duties, rights, and responsibilities related to State
24 healthcare purchasing under this Code that were transferred
25 from the Department of Corrections to the Department of
26 Healthcare and Family Services by Executive Order 3 (2005) are

1 transferred back to the Department of Corrections; however,
2 powers, duties, rights, and responsibilities related to State
3 healthcare purchasing under this Code that were exercised by
4 the Department of Corrections before the effective date of
5 Executive Order 3 (2005) but that pertain to individuals
6 resident in facilities operated by the Department of Juvenile
7 Justice are transferred to the Department of Juvenile Justice.
8 (Source: P.A. 100-198, eff. 1-1-18; 100-863, eff. 8-14-18.)

9 (Text of Section after amendment by P.A. 101-235)

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

11 (1) In addition to the powers, duties, and responsibilities
12 which are otherwise provided by law, the Department shall have
13 the following powers:

14 (a) To accept persons committed to it by the courts of
15 this State for care, custody, treatment and
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18 authorized to exercise the federal detention function for
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25 consultation with the Department of Alcoholism and

1 Substance Abuse (now the Department of Human Services), the
2 Department of Corrections shall develop a master plan for
3 the screening and evaluation of persons committed to its
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6 the Department shall report to the General Assembly on such
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19 additional facility or facilities as he or she deems
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22 General Assembly on the effectiveness of the program by
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8 an agreement of the type described in subsection (d) of
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8 Department of Corrections nor the Department of
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14 (h) To investigate the grievances of any person
15 committed to the Department and to inquire into any alleged
16 misconduct by employees or committed persons; and for these
17 purposes it may issue subpoenas and compel the attendance
18 of witnesses and the production of writings and papers, and
19 may examine under oath any witnesses who may appear before
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21 or releasee's conditions of parole or release; and for this
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25 evidence that such violations have occurred.

26 If any person fails to obey a subpoena issued under

1 this subsection, the Director may apply to any circuit
2 court to secure compliance with the subpoena. The failure
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1 (l) To report annually to the Governor on the committed
2 persons, institutions and programs of the Department.

3 (1-5) (Blank).

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5 powers and duties vested by law in the Department.

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

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11 State Treasury to reimburse counties where State penal
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24 violators and committed persons who have violated the rules
25 governing their conduct while in work release. This program
26 shall not apply to those persons who have committed a new

1 offense while serving on parole or mandatory supervised
2 release or while committed to work release.

3 Elements of the program shall include, but shall not be
4 limited to, the following:

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

8 (2) Participants shall be required to maintain
9 employment.

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

13 (4) Each participant shall:

14 (A) provide restitution to victims in
15 accordance with any court order;

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

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22 streetgang, occupy a position of organizer,
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6 meanings ascribed to them in Section 10 of the Illinois
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9 in order to manage and supervise inmates who are disruptive
10 or dangerous and provide for the safety and security of the
11 staff and the other inmates.

12 (t) To monitor any unprivileged conversation or any
13 unprivileged communication, whether in person or by mail,
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15 commitment to the Department, was a member of an organized
16 gang and any other person without the need to show cause or
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26 conversation or communication that is not protected by any

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2 of the Illinois Supreme Court.

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

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

26 (v) To do all other acts necessary to carry out the

1 provisions of this Chapter.

2 (2) The Department of Corrections shall by January 1, 1998,
3 consider building and operating a correctional facility within
4 100 miles of a county of over 2,000,000 inhabitants, especially
5 a facility designed to house juvenile participants in the
6 impact incarceration program.

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

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

22 (5) On and after the date 6 months after August 16, 2013
23 (the effective date of Public Act 98-488), as provided in the
24 Executive Order 1 (2012) Implementation Act, all of the powers,
25 duties, rights, and responsibilities related to State
26 healthcare purchasing under this Code that were transferred

1 from the Department of Corrections to the Department of
2 Healthcare and Family Services by Executive Order 3 (2005) are
3 transferred back to the Department of Corrections; however,
4 powers, duties, rights, and responsibilities related to State
5 healthcare purchasing under this Code that were exercised by
6 the Department of Corrections before the effective date of
7 Executive Order 3 (2005) but that pertain to individuals
8 resident in facilities operated by the Department of Juvenile
9 Justice are transferred to the Department of Juvenile Justice.
10 (Source: P.A. 100-198, eff. 1-1-18; 100-863, eff. 8-14-18;
11 101-235, eff. 1-1-20.)

12 Section 95. No acceleration or delay. Where this Act makes
13 changes in a statute that is represented in this Act by text
14 that is not yet or no longer in effect (for example, a Section
15 represented by multiple versions), the use of that text does
16 not accelerate or delay the taking effect of (i) the changes
17 made by this Act or (ii) provisions derived from any other
18 Public Act.