



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4438

by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-8-5
730 ILCS 5/3-8-6

from Ch. 38, par. 1003-8-5
from Ch. 38, par. 1003-8-6

Amends the Unified Code of Corrections. Provides that the Director of Corrections may transfer persons committed to the Department other than addicts, alcoholics, or intoxicated persons who may be subject to involuntary admission or who meets the standards of judicial admission to any psychiatric unit of any public or private hospital for observation, diagnosis, and treatment, subject to the approval of the hospital, for a period of not more than 6 months, if the person consents in writing to the transfer. Establishes procedures in which the Director of Corrections may petition the circuit court requesting transfer to the hospital if the person objects or does not consent to his or her transfer. Provides that no person may be transferred under this provision unless the Department of Corrections determines in writing that the psychiatric unit to which the person will be transferred can provide a safe and secure environment for that person. Provides that the public or private hospital shall return to the Department of Corrections any person committed to it under this provision, whose sentence has not expired and whom the hospital deems no longer subject to involuntary admission, or no longer meets the standard for judicial admission. Provides that the Department of Corrections shall notify the director of any hospital of the expiration of the sentence of any person transferred to that hospital under this provision.

LRB100 16211 RLC 31334 b

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 3-8-5 and 3-8-6 as follows:

6 (730 ILCS 5/3-8-5) (from Ch. 38, par. 1003-8-5)

7 Sec. 3-8-5. Transfer to Department of Human Services or
8 other hospital.

9 (a) The Department shall cause inquiry and examination at
10 periodic intervals to ascertain whether any person committed to
11 it may be subject to involuntary admission, as defined in
12 Section 1-119 of the Mental Health and Developmental
13 Disabilities Code, or meets the standard for judicial admission
14 as defined in Section 4-500 of the Mental Health and
15 Developmental Disabilities Code, or is an addict, alcoholic or
16 intoxicated person as defined in the Alcoholism and Other Drug
17 Abuse and Dependency Act. The Department may provide special
18 psychiatric or psychological or other counseling or treatment
19 to such persons in a separate institution within the
20 Department, or the Director of ~~the Department of~~ Corrections
21 may transfer such persons other than addicts, alcoholics or
22 intoxicated persons:

23 (1) to the Department of Human Services for

1 observation, diagnosis and treatment, subject to the
2 approval of the Secretary ~~Director of the Department~~ of
3 Human Services, for a period of not more than 6 months, if
4 the person consents in writing to the transfer; or-

5 (2) to any psychiatric unit of any public or private
6 hospital for observation, diagnosis, and treatment,
7 subject to the approval of the hospital, for a period of
8 not more than 6 months, if the person consents in writing
9 to the transfer. No person may be transferred under this
10 paragraph unless the Department determines in writing that
11 the psychiatric unit to which the person will be
12 transferred can provide a safe and secure environment for
13 that person.

14 The person shall be advised of his right not to consent, and if
15 he does not consent, such transfer may be effected only by
16 commitment under paragraphs (c) and (d) of this Section.

17 (b) The person's spouse, guardian or nearest relative and
18 his attorney of record shall be advised of their right to
19 object, and if objection is made, such transfer may be effected
20 only by commitment under paragraph (c) of this Section. Notices
21 of such transfer shall be mailed to such person's spouse,
22 guardian or nearest relative and to the attorney of record
23 marked for delivery to addressee only at his last known address
24 by certified mail with return receipt requested together with
25 written notification of the manner and time within which he may
26 object thereto.

1 (c) If a committed person does not consent to his transfer
2 ~~to the Department of Human Services~~ or if a person objects
3 under paragraph (b) of this Section, or if the Department of
4 Human Services or other hospital determines that a transferred
5 person requires commitment ~~to the Department of Human Services~~
6 for more than 6 months, or if the person's sentence will expire
7 within 6 months, the Director of ~~the Department of~~ Corrections
8 shall file a petition in the circuit court of the county in
9 which the correctional institution or facility is located
10 requesting the transfer of such person to the Department of
11 Human Services or other hospital. A certificate of a
12 psychiatrist, clinical psychologist or, if admission to a
13 developmental disability facility is sought, of a physician
14 that the person is in need of commitment to the Department of
15 Human Services or other hospital for treatment or habilitation
16 shall be attached to the petition. Copies of the petition shall
17 be furnished to the named person and to the State's Attorneys
18 ~~state's attorneys~~ of the county in which the correctional
19 institution or facility is located and the county in which the
20 named person was committed to the Department of Corrections.

21 (d) The court shall set a date for a hearing on the
22 petition within the time limit set forth in the Mental Health
23 and Developmental Disabilities Code. The hearing shall be
24 conducted in the manner prescribed by the Mental Health and
25 Developmental Disabilities Code. If the person is found to be
26 in need of commitment ~~to the Department of Human Services~~ for

1 treatment or habilitation, the court may commit him to the ~~that~~
2 Department of Human Services or other hospital.

3 (e) Nothing in this Section shall limit the right of the
4 Director or the chief administrative officer of any institution
5 or facility to utilize the emergency admission provisions of
6 the Mental Health and Developmental Disabilities Code with
7 respect to any person in his custody or care. The transfer of a
8 person to an institution or facility of the Department of Human
9 Services or to any psychiatric unit of any public or private
10 hospital under paragraph (a) of this Section does not discharge
11 the person from the control of the Department of Corrections.
12 (Source: P.A. 88-670, eff. 12-2-94; 89-507, eff. 7-1-97.)

13 (730 ILCS 5/3-8-6) (from Ch. 38, par. 1003-8-6)
14 Sec. 3-8-6. Return and Release from Department of Human
15 Services or other hospital.

16 (a) The Department of Human Services or any other public or
17 private hospital shall return to the Department of Corrections
18 any person committed to it under Section 3-8-5, whose sentence
19 has not expired and whom the Department of Human Services or
20 the hospital deems no longer subject to involuntary admission,
21 or no longer meets the standard for judicial admission.

22 (b) If a person returned to the Department of Corrections
23 under paragraph (a) of this Section is eligible for parole and
24 has not had a parole hearing within the preceding 6 months, he
25 shall have a parole hearing within 45 days after his return.

1 (c) The Department of Corrections shall notify the
2 Secretary of Human Services of the expiration of the sentence
3 of any person transferred to the Department of Human Services
4 under Section 3-8-5. The Department of Corrections shall notify
5 the director of any hospital of the expiration of the sentence
6 of any person transferred to that hospital under Section 3-8-5.
7 If the Department of Human Services or any hospital determines
8 that a person transferred to it under paragraph (a) of Section
9 3-8-5 requires further hospitalization, it shall file a
10 petition for the involuntary or judicial admission of such
11 person under the Mental Health and Developmental Disabilities
12 Code.

13 (d) The Department of Human Services or any other public or
14 private hospital shall release under the Mental Health and
15 Developmental Disabilities Code, any person transferred to it
16 under paragraph (c) of Section 3-8-5, whose sentence and parole
17 term have expired and whom the Department of Human Services or
18 the hospital deems no longer subject to involuntary admission,
19 or no longer meets the standard for judicial admission.

20 (Source: P.A. 89-507, eff. 7-1-97.)