



Sen. Andy Manar

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1 AMENDMENT TO SENATE BILL 19

2 AMENDMENT NO. _____. Amend Senate Bill 19, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Unified Code of Corrections is amended by
6 changing Section 3-2-2 as follows:

7 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

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

1 limited purposes and periods of time.

2 (b) To develop and maintain reception and evaluation
3 units for purposes of analyzing the custody and
4 rehabilitation needs of persons committed to it and to
5 assign such persons to institutions and programs under its
6 control or transfer them to other appropriate agencies. In
7 consultation with the Department of Alcoholism and
8 Substance Abuse (now the Department of Human Services), the
9 Department of Corrections shall develop a master plan for
10 the screening and evaluation of persons committed to its
11 custody who have alcohol or drug abuse problems, and for
12 making appropriate treatment available to such persons;
13 the Department shall report to the General Assembly on such
14 plan not later than April 1, 1987. The maintenance and
15 implementation of such plan shall be contingent upon the
16 availability of funds.

17 (b-1) To create and implement, on January 1, 2002, a
18 pilot program to establish the effectiveness of
19 pupillometer technology (the measurement of the pupil's
20 reaction to light) as an alternative to a urine test for
21 purposes of screening and evaluating persons committed to
22 its custody who have alcohol or drug problems. The pilot
23 program shall require the pupillometer technology to be
24 used in at least one Department of Corrections facility.
25 The Director may expand the pilot program to include an
26 additional facility or facilities as he or she deems

1 appropriate. A minimum of 4,000 tests shall be included in
2 the pilot program. The Department must report to the
3 General Assembly on the effectiveness of the program by
4 January 1, 2003.

5 (b-5) To develop, in consultation with the Department
6 of State Police, a program for tracking and evaluating each
7 inmate from commitment through release for recording his or
8 her gang affiliations, activities, or ranks.

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

20 Pursuant to its power to establish new institutions and
21 facilities, the Department may authorize the Department of
22 Central Management Services to accept bids from counties
23 and municipalities for the construction, remodeling or
24 conversion of a structure to be leased to the Department of
25 Corrections for the purposes of its serving as a
26 correctional institution or facility. Such construction,

1 remodeling or conversion may be financed with revenue bonds
2 issued pursuant to the Industrial Building Revenue Bond Act
3 by the municipality or county. The lease specified in a bid
4 shall be for a term of not less than the time needed to
5 retire any revenue bonds used to finance the project, but
6 not to exceed 40 years. The lease may grant to the State
7 the option to purchase the structure outright.

8 Upon receipt of the bids, the Department may certify
9 one or more of the bids and shall submit any such bids to
10 the General Assembly for approval. Upon approval of a bid
11 by a constitutional majority of both houses of the General
12 Assembly, pursuant to joint resolution, the Department of
13 Central Management Services may enter into an agreement
14 with the county or municipality pursuant to such bid.

15 (c-5) To build and maintain regional juvenile
16 detention centers and to charge a per diem to the counties
17 as established by the Department to defray the costs of
18 housing each minor in a center. In this subsection (c-5),
19 "juvenile detention center" means a facility to house
20 minors during pendency of trial who have been transferred
21 from proceedings under the Juvenile Court Act of 1987 to
22 prosecutions under the criminal laws of this State in
23 accordance with Section 5-805 of the Juvenile Court Act of
24 1987, whether the transfer was by operation of law or
25 permissive under that Section. The Department shall
26 designate the counties to be served by each regional

1 juvenile detention center.

2 (d) To develop and maintain programs of control,
3 rehabilitation and employment of committed persons within
4 its institutions.

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

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

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

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

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

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

1 witnesses and the production of documents only if there is
2 reason to believe that such procedures would provide
3 evidence that such violations have occurred.

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

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

25 (j) To cooperate with other departments and agencies
26 and with local communities for the development of standards

1 and programs for better correctional services in this
2 State.

3 (k) To administer all moneys and properties of the
4 Department.

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

7 (1-5) (Blank).

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

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

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

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

25 (q) To establish a diversion program.

26 The program shall provide a structured environment for

1 selected technical parole or mandatory supervised release
2 violators and committed persons who have violated the rules
3 governing their conduct while in work release. This program
4 shall not apply to those persons who have committed a new
5 offense while serving on parole or mandatory supervised
6 release or while committed to work release.

7 Elements of the program shall include, but shall not be
8 limited to, the following:

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

12 (2) Participants shall be required to maintain
13 employment.

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

17 (4) Each participant shall:

18 (A) provide restitution to victims in
19 accordance with any court order;

20 (B) provide financial support to his
21 dependents; and

22 (C) make appropriate payments toward any other
23 court-ordered obligations.

24 (5) Each participant shall complete community
25 service in addition to employment.

26 (6) Participants shall take part in such

1 counseling, educational and other programs as the
2 Department may deem appropriate.

3 (7) Participants shall submit to drug and alcohol
4 screening.

5 (8) The Department shall promulgate rules
6 governing the administration of the program.

7 (r) To enter into intergovernmental cooperation
8 agreements under which persons in the custody of the
9 Department may participate in a county impact
10 incarceration program established under Section 3-6038 or
11 3-15003.5 of the Counties Code.

12 (r-5) (Blank).

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

24 (i) are members of a criminal streetgang;

25 (ii) with respect to other individuals within the
26 streetgang, occupy a position of organizer,

1 supervisor, or other position of management or
2 leadership; and

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

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

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

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

1 Terrorism Omnibus Prevention Act.

2 As used in this subdivision (1)(t), "unprivileged
3 conversation" or "unprivileged communication" means a
4 conversation or communication that is not protected by any
5 privilege recognized by law or by decision, rule, or order
6 of the Illinois Supreme Court.

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

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

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 (3.5) Notwithstanding any other law to the contrary, the
16 Department shall not reduce the number of Department employees
17 whose employment is related to the provision of medical or
18 mental health services lower than the number of Department
19 employees on January 1, 2016 whose employment is related to the
20 provision of medical or mental health services. The Department
21 shall not enter into a contract, modify a current contract, or
22 process a change order that would have the effect of reducing
23 the number of Department employees whose employment is related
24 to the provision of medical or mental health services lower
25 than the number of Department employees on January 1, 2016.

26 (4) When the Department lets bids for contracts for food or

1 commissary services to be provided to Department facilities,
2 the bid may only be let to a food or commissary services
3 provider that has obtained an irrevocable letter of credit or
4 performance bond issued by a company whose bonds have an
5 investment grade or higher rating by a bond rating
6 organization.

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

21 (Source: P.A. 97-697, eff. 6-22-12; 97-800, eff. 7-13-12;
22 97-802, eff. 7-13-12; 98-463, eff. 8-16-13; 98-488, eff.
23 8-16-13; 98-558, eff. 1-1-14; 98-756, eff. 7-16-14.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."