



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1158

Introduced 2/5/2019, by Sen. Robert Peters

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.

LRB101 09409 SLF 54507 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 (d-10) To provide educational and visitation
26 opportunities to committed persons within its institutions

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

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

6 (f) To establish in cooperation with the Department of
7 Transportation to supply a sufficient number of prisoners
8 for use by the Department of Transportation to clean up the
9 trash and garbage along State, county, township, or
10 municipal highways as designated by the Department of
11 Transportation. The Department of Corrections, at the
12 request of the Department of Transportation, shall furnish
13 such prisoners at least annually for a period to be agreed
14 upon between the Director of Corrections and the Secretary
15 of Transportation. The prisoners used on this program shall
16 be selected by the Director of Corrections on whatever
17 basis he deems proper in consideration of their term,
18 behavior and earned eligibility to participate in such
19 program - where they will be outside of the prison facility
20 but still in the custody of the Department of Corrections.
21 Prisoners convicted of first degree murder, or a Class X
22 felony, or armed violence, or aggravated kidnapping, or
23 criminal sexual assault, aggravated criminal sexual abuse
24 or a subsequent conviction for criminal sexual abuse, or
25 forcible detention, or arson, or a prisoner adjudged a
26 Habitual Criminal shall not be eligible for selection to

1 participate in such program. The prisoners shall remain as
2 prisoners in the custody of the Department of Corrections
3 and such Department shall furnish whatever security is
4 necessary. The Department of Transportation shall furnish
5 trucks and equipment for the highway cleanup program and
6 personnel to supervise and direct the program. Neither the
7 Department of Corrections nor the Department of
8 Transportation shall replace any regular employee with a
9 prisoner.

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

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

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

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

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

26 (k) To administer all moneys and properties of the

1 Department.

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

4 (l-5) (Blank).

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

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

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

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

22 (q) To establish a diversion program.

23 The program shall provide a structured environment for
24 selected technical parole or mandatory supervised release
25 violators and committed persons who have violated the rules
26 governing their conduct while in work release. This program

1 shall not apply to those persons who have committed a new
2 offense while serving on parole or mandatory supervised
3 release or while committed to work release.

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

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

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

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

14 (4) Each participant shall:

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

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

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

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

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

26 (7) Participants shall submit to drug and alcohol

1 screening.

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

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

9 (r-5) (Blank).

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

21 (i) are members of a criminal streetgang;

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

26 (iii) are actively and personally engaged in

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

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

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

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

25 As used in this subdivision (1)(t), "unprivileged
26 conversation" or "unprivileged communication" means a

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

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

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

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

25 (2) The Department of Corrections shall by January 1, 1998,
26 consider building and operating a correctional facility within

1 100 miles of a county of over 2,000,000 inhabitants, especially
2 a facility designed to house juvenile participants in the
3 impact incarceration program.

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

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

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

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

8 (730 ILCS 5/3-12-2) (from Ch. 38, par. 1003-12-2)

9 Sec. 3-12-2. Types of employment.

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

1 (b) Works of art, literature, handicraft or other items
2 produced by committed persons as an avocation and not as a
3 product of a work program of the Department may be sold to the
4 public under rules and regulations established by the
5 Department. The cost of selling such products may be deducted
6 from the proceeds, and the balance shall be credited to the
7 person's account under Section 3-4-3. ~~The Department shall~~
8 ~~notify the Attorney General of the existence of any proceeds~~
9 ~~which it believes should be applied towards a satisfaction, in~~
10 ~~whole or in part, of the person's incarceration costs.~~

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

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

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

1 Article until all fees and costs are paid in full. All other
2 wages shall be deposited in the individual's account under
3 rules and regulations of the Department. ~~The Department shall~~
4 ~~notify the Attorney General of any compensation applied towards~~
5 ~~a satisfaction, in whole or in part, of the person's~~
6 ~~incarceration costs.~~

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

8 (730 ILCS 5/3-7-6 rep.)

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

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

13 (735 ILCS 5/4-101) (from Ch. 110, par. 4-101)

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

- 1 1. Where the debtor is not a resident of this State.
- 2 2. When the debtor conceals himself or herself or
3 stands in defiance of an officer, so that process cannot be
4 served upon him or her.
- 5 3. Where the debtor has departed from this State with
6 the intention of having his or her effects removed from
7 this State.
- 8 4. Where the debtor is about to depart from this State
9 with the intention of having his or her effects removed
10 from this State.
- 11 5. Where the debtor is about to remove his or her
12 property from this State to the injury of such creditor.
- 13 6. Where the debtor has within 2 years preceding the
14 filing of the affidavit required, fraudulently conveyed or
15 assigned his or her effects, or a part thereof, so as to
16 hinder or delay his or her creditors.
- 17 7. Where the debtor has, within 2 years prior to the
18 filing of such affidavit, fraudulently concealed or
19 disposed of his or her property so as to hinder or delay
20 his or her creditors.
- 21 8. Where the debtor is about fraudulently to conceal,
22 assign, or otherwise dispose of his or her property or
23 effects, so as to hinder or delay his or her creditors.
- 24 9. Where the debt sued for was fraudulently contracted
25 on the part of the debtor. The statements of the debtor,
26 his or her agent or attorney, which constitute the fraud,

1 shall have been reduced to writing, and his or her
2 signature attached thereto, by himself or herself, agent or
3 attorney.

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

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

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