

# SB1976



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1976

Introduced 2/26/2021, by Sen. Laura Fine

### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-2-2

from Ch. 38, par. 1003-2-2

Amends the Unified Code of Corrections. Provides that the Department of Corrections shall appoint a point of contact person who shall receive suggestions, complaints, or other requests to the Department from visitors to Department institutions or facilities and from other members of the public.

LRB102 10348 RLC 15675 b

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 Section 3-2-2 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  
9 responsibilities which are otherwise provided by law, the  
10 Department shall have 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),

1 the Department of Corrections shall develop a master plan  
2 for the screening and evaluation of persons committed to  
3 its custody who have alcohol or drug abuse problems, and  
4 for making appropriate treatment available to such  
5 persons; the Department shall report to the General  
6 Assembly on such plan not later than April 1, 1987. The  
7 maintenance and implementation of such plan shall be  
8 contingent upon the 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  
25 each inmate from commitment through release for recording  
26 his or 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  
7 into an agreement of the type described in subsection (d)  
8 of 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  
13 and facilities, the Department may authorize the  
14 Department of Central Management Services to accept bids  
15 from counties and municipalities for the construction,  
16 remodeling or conversion of a structure to be leased to  
17 the Department of Corrections for the purposes of its  
18 serving as a correctional institution or facility. Such  
19 construction, remodeling or conversion may be financed  
20 with revenue bonds issued pursuant to the Industrial  
21 Building Revenue Bond Act by the municipality or county.  
22 The lease specified in a bid shall be for a term of not  
23 less than the time needed to retire any revenue bonds used  
24 to finance the project, but not to exceed 40 years. The  
25 lease may grant to the State the option to purchase the  
26 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  
4 to 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  
10 the 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  
17 shall be selected by the Director of Corrections on  
18 whatever basis he deems proper in consideration of their  
19 term, behavior and earned eligibility to participate in  
20 such program - where they will be outside of the prison  
21 facility but still in the custody of the Department of  
22 Corrections. Prisoners convicted of first degree murder,  
23 or a Class X felony, or armed violence, or aggravated  
24 kidnapping, or criminal sexual assault, aggravated  
25 criminal sexual abuse or a subsequent conviction for  
26 criminal sexual abuse, or forcible detention, or arson, or

1 a prisoner adjudged a Habitual Criminal shall not be  
2 eligible for selection to participate in such program. The  
3 prisoners shall remain as prisoners in the custody of the  
4 Department of Corrections and such Department shall  
5 furnish whatever security is necessary. The Department of  
6 Transportation shall furnish trucks and equipment for the  
7 highway cleanup program and personnel to supervise and  
8 direct the program. Neither the Department of Corrections  
9 nor the Department of Transportation shall replace any  
10 regular employee with a 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 and to inquire into any  
16 alleged misconduct by employees or committed persons; and  
17 for these purposes it may issue subpoenas and compel the  
18 attendance of witnesses and the production of writings and  
19 papers, and may examine under oath any witnesses who may  
20 appear before it; to also investigate alleged violations  
21 of a parolee's or releasee's conditions of parole or  
22 release; and for this purpose it may issue subpoenas and  
23 compel the attendance of witnesses and the production of  
24 documents only if there is reason to believe that such  
25 procedures would provide evidence that such violations  
26 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  
12 or alleged violations of a parolee's or releasee's  
13 conditions of parole shall be conservators of the peace  
14 for those purposes, and shall have the full power of peace  
15 officers outside of the facilities of the Department in  
16 the protection, arrest, retaking and reconfining of  
17 committed persons or where the exercise of such power is  
18 necessary to the investigation of such misconduct or  
19 violations. This subsection shall not apply to persons  
20 committed to the Department of Juvenile Justice under the  
21 Juvenile Court Act of 1987 on aftercare release.

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

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



1 Department.

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

5 (l-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

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

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

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

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

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

16 (4) Each participant shall:

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

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

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

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

25 (6) Participants shall take part in such  
26 counseling, educational and other programs as the

1 Department may deem appropriate.

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

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

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

11 (r-5) (Blank).

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

23 (i) are members of a criminal streetgang;

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

1 leadership; and

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

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

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

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

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

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

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

25           (u-6) To appoint a point of contact person who shall  
26 receive suggestions, complaints, or other requests to the

1       Department from visitors to Department institutions or  
2       facilities and from other members of the public.

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

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

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

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

25          (5) On and after the date 6 months after August 16, 2013  
26       (the effective date of Public Act 98-488), as provided in the

1 Executive Order 1 (2012) Implementation Act, all of the  
2 powers, duties, rights, and responsibilities related to State  
3 healthcare purchasing under this Code that were transferred  
4 from the Department of Corrections to the Department of  
5 Healthcare and Family Services by Executive Order 3 (2005) are  
6 transferred back to the Department of Corrections; however,  
7 powers, duties, rights, and responsibilities related to State  
8 healthcare purchasing under this Code that were exercised by  
9 the Department of Corrections before the effective date of  
10 Executive Order 3 (2005) but that pertain to individuals  
11 resident in facilities operated by the Department of Juvenile  
12 Justice are transferred to the Department of Juvenile Justice.  
13 (Source: P.A. 100-198, eff. 1-1-18; 100-863, eff. 8-14-18;  
14 101-235, eff. 1-1-20.)