



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB1092

Introduced 1/12/2023, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2  
730 ILCS 5/3-10-2

from Ch. 38, par. 1003-6-2  
from Ch. 38, par. 1003-10-2

Amends the Unified Code of Corrections. Provides that the Department of Corrections shall provide educational programs in each of its institutions and facilities for all committed persons. Provides that the Department must allow into each institution and facility of the Department teachers who hold Professional Educator Licenses issued by the State Superintendent of Education under the School Code to teach committed persons. Provides that the Department shall provide vocational training for committed persons in each institution and facility of the Department. Provides that each institution and facility of the Department of Juvenile Justice shall provide educational and vocational training for all persons committed to the Department. Effective immediately.

LRB103 04846 RLC 49856 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 3-6-2 and 3-10-2 as follows:

6 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

7 Sec. 3-6-2. Institutions and facility administration.

8 (a) Each institution and facility of the Department shall  
9 be administered by a chief administrative officer appointed by  
10 the Director. A chief administrative officer shall be  
11 responsible for all persons assigned to the institution or  
12 facility. The chief administrative officer shall administer  
13 the programs of the Department for the custody and treatment  
14 of such persons.

15 (b) The chief administrative officer shall have such  
16 assistants as the Department may assign.

17 (c) The Director or Assistant Director shall have the  
18 emergency powers to temporarily transfer individuals without  
19 formal procedures to any State, county, municipal or regional  
20 correctional or detention institution or facility in the  
21 State, subject to the acceptance of such receiving institution  
22 or facility, or to designate any reasonably secure place in  
23 the State as such an institution or facility and to make

1 transfers thereto. However, transfers made under emergency  
2 powers shall be reviewed as soon as practicable under Article  
3 8, and shall be subject to Section 5-905 of the Juvenile Court  
4 Act of 1987. This Section shall not apply to transfers to the  
5 Department of Human Services which are provided for under  
6 Section 3-8-5 or Section 3-10-5.

7 (d) The Department of Juvenile Justice shall provide  
8 educational programs in each of its institutions and  
9 facilities for all committed youth so that all youth have an  
10 opportunity to attain the achievement level equivalent to the  
11 completion of the twelfth grade in the public school system in  
12 this State. Other higher levels of attainment shall be  
13 encouraged and professional instruction shall be maintained  
14 wherever possible. The Department must allow into each  
15 institution and facility of the Department teachers who hold  
16 Professional Educator Licenses issued by the State  
17 Superintendent of Education under the School Code to teach  
18 committed persons. The Department may establish programs of  
19 mandatory education and may establish rules and regulations  
20 for the administration of such programs. A person committed to  
21 the Department of Corrections who, during the period of his or  
22 her incarceration, participates in an educational program  
23 provided by or through the Department of Corrections and  
24 through that program is awarded or earns the number of hours of  
25 credit required for the award of an associate, baccalaureate,  
26 or higher degree from a community college, college, or

1 university located in Illinois shall reimburse the State,  
2 through the Department of Corrections, for the costs incurred  
3 by the State in providing that person during his or her  
4 incarceration with the education that qualifies him or her for  
5 the award of that degree. The costs for which reimbursement is  
6 required under this subsection shall be determined and  
7 computed by the Department of Corrections under rules and  
8 regulations that it shall establish for that purpose. However,  
9 interest at the rate of 6% per annum shall be charged on the  
10 balance of those costs from time to time remaining unpaid,  
11 from the date of the person's parole, mandatory supervised  
12 release, or release constituting a final termination of his or  
13 her commitment to the Department of Corrections until paid.

14 (d-1) The Department shall provide vocational training for  
15 committed persons in each institution and facility of the  
16 Department.

17 (d-5) A person committed to the Department is entitled to  
18 confidential testing for infection with human immunodeficiency  
19 virus (HIV) and to counseling in connection with such testing,  
20 with no copay to the committed person. A person committed to  
21 the Department who has tested positive for infection with HIV  
22 is entitled to medical care while incarcerated, counseling,  
23 and referrals to support services, in connection with that  
24 positive test result. Implementation of this subsection (d-5)  
25 is subject to appropriation.

26 (e) A person committed to the Department who becomes in

1 need of medical or surgical treatment but is incapable of  
2 giving consent thereto shall receive such medical or surgical  
3 treatment by the chief administrative officer consenting on  
4 the person's behalf. Before the chief administrative officer  
5 consents, he or she shall obtain the advice of one or more  
6 physicians licensed to practice medicine in all its branches  
7 in this State. If such physician or physicians advise:

8 (1) that immediate medical or surgical treatment is  
9 required relative to a condition threatening to cause  
10 death, damage or impairment to bodily functions, or  
11 disfigurement; and

12 (2) that the person is not capable of giving consent  
13 to such treatment; the chief administrative officer may  
14 give consent for such medical or surgical treatment, and  
15 such consent shall be deemed to be the consent of the  
16 person for all purposes, including, but not limited to,  
17 the authority of a physician to give such treatment.

18 (e-5) If a physician providing medical care to a committed  
19 person on behalf of the Department advises the chief  
20 administrative officer that the committed person's mental or  
21 physical health has deteriorated as a result of the cessation  
22 of ingestion of food or liquid to the point where medical or  
23 surgical treatment is required to prevent death, damage, or  
24 impairment to bodily functions, the chief administrative  
25 officer may authorize such medical or surgical treatment.

26 (f) In the event that the person requires medical care and

1 treatment at a place other than the institution or facility,  
2 the person may be removed therefrom under conditions  
3 prescribed by the Department. Neither the Department of  
4 Corrections nor the Department of Juvenile Justice may require  
5 a committed person or person committed to any facility  
6 operated by the Department of Juvenile Justice, as set forth  
7 in Section 3-2.5-15 of this Code, to pay any co-payment for  
8 receiving medical or dental services.

9 (f-5) The Department shall comply with the Health Care  
10 Violence Prevention Act.

11 (g) Any person having sole custody of a child at the time  
12 of commitment or any woman giving birth to a child after her  
13 commitment, may arrange through the Department of Children and  
14 Family Services for suitable placement of the child outside of  
15 the Department of Corrections. The Director of the Department  
16 of Corrections may determine that there are special reasons  
17 why the child should continue in the custody of the mother  
18 until the child is 6 years old.

19 (h) The Department may provide Family Responsibility  
20 Services which may consist of, but not be limited to the  
21 following:

- 22 (1) family advocacy counseling;
- 23 (2) parent self-help group;
- 24 (3) parenting skills training;
- 25 (4) parent and child overnight program;
- 26 (5) parent and child reunification counseling, either

1 separately or together, preceding the inmate's release;  
2 and

3 (6) a prerelease reunification staffing involving the  
4 family advocate, the inmate and the child's counselor, or  
5 both and the inmate.

6 (i) (Blank).

7 (j) Any person convicted of a sex offense as defined in the  
8 Sex Offender Management Board Act shall be required to receive  
9 a sex offender evaluation prior to release into the community  
10 from the Department of Corrections. The sex offender  
11 evaluation shall be conducted in conformance with the  
12 standards and guidelines developed under the Sex Offender  
13 Management Board Act and by an evaluator approved by the  
14 Board.

15 (k) Any minor committed to the Department of Juvenile  
16 Justice for a sex offense as defined by the Sex Offender  
17 Management Board Act shall be required to undergo sex offender  
18 treatment by a treatment provider approved by the Board and  
19 conducted in conformance with the Sex Offender Management  
20 Board Act.

21 (l) Prior to the release of any inmate committed to a  
22 facility of the Department or the Department of Juvenile  
23 Justice, the Department must provide the inmate with  
24 appropriate information verbally, in writing, by video, or  
25 other electronic means, concerning HIV and AIDS. The  
26 Department shall develop the informational materials in

1 consultation with the Department of Public Health. At the same  
2 time, the Department must also offer the committed person the  
3 option of testing for infection with human immunodeficiency  
4 virus (HIV), with no copayment for the test. Pre-test  
5 information shall be provided to the committed person and  
6 informed consent obtained as required in subsection (d) of  
7 Section 3 and Section 5 of the AIDS Confidentiality Act. The  
8 Department may conduct opt-out HIV testing as defined in  
9 Section 4 of the AIDS Confidentiality Act. If the Department  
10 conducts opt-out HIV testing, the Department shall place signs  
11 in English, Spanish and other languages as needed in multiple,  
12 highly visible locations in the area where HIV testing is  
13 conducted informing inmates that they will be tested for HIV  
14 unless they refuse, and refusal or acceptance of testing shall  
15 be documented in the inmate's medical record. The Department  
16 shall follow procedures established by the Department of  
17 Public Health to conduct HIV testing and testing to confirm  
18 positive HIV test results. All testing must be conducted by  
19 medical personnel, but pre-test and other information may be  
20 provided by committed persons who have received appropriate  
21 training. The Department, in conjunction with the Department  
22 of Public Health, shall develop a plan that complies with the  
23 AIDS Confidentiality Act to deliver confidentially all  
24 positive or negative HIV test results to inmates or former  
25 inmates. Nothing in this Section shall require the Department  
26 to offer HIV testing to an inmate who is known to be infected



1 with HIV, or who has been tested for HIV within the previous  
2 180 days and whose documented HIV test result is available to  
3 the Department electronically. The testing provided under this  
4 subsection (1) shall consist of a test approved by the  
5 Illinois Department of Public Health to determine the presence  
6 of HIV infection, based upon recommendations of the United  
7 States Centers for Disease Control and Prevention. If the test  
8 result is positive, a reliable supplemental test based upon  
9 recommendations of the United States Centers for Disease  
10 Control and Prevention shall be administered.

11 Prior to the release of an inmate who the Department knows  
12 has tested positive for infection with HIV, the Department in  
13 a timely manner shall offer the inmate transitional case  
14 management, including referrals to other support services.

15 (m) The chief administrative officer of each institution  
16 or facility of the Department shall make a room in the  
17 institution or facility available for substance use disorder  
18 services to be provided to committed persons on a voluntary  
19 basis. The services shall be provided for one hour once a week  
20 at a time specified by the chief administrative officer of the  
21 institution or facility if the following conditions are met:

22 (1) the substance use disorder service contacts the  
23 chief administrative officer to arrange the meeting;

24 (2) the committed person may attend the meeting for  
25 substance use disorder services only if the committed  
26 person uses pre-existing free time already available to

1 the committed person;

2 (3) all disciplinary and other rules of the  
3 institution or facility remain in effect;

4 (4) the committed person is not given any additional  
5 privileges to attend substance use disorder services;

6 (5) if the substance use disorder service does not  
7 arrange for scheduling a meeting for that week, no  
8 substance use disorder services shall be provided to the  
9 committed person in the institution or facility for that  
10 week;

11 (6) the number of committed persons who may attend a  
12 substance use disorder meeting shall not exceed 40 during  
13 any session held at the correctional institution or  
14 facility;

15 (7) a volunteer seeking to provide substance use  
16 disorder services under this subsection (m) must submit an  
17 application to the Department of Corrections under  
18 existing Department rules and the Department must review  
19 the application within 60 days after submission of the  
20 application to the Department; and

21 (8) each institution and facility of the Department  
22 shall manage the substance use disorder services program  
23 according to its own processes and procedures.

24 For the purposes of this subsection (m), "substance use  
25 disorder services" means recovery services for persons with  
26 substance use disorders provided by volunteers of recovery

1 support services recognized by the Department of Human  
2 Services.

3 (Source: P.A. 101-81, eff. 7-12-19; 101-86, eff. 1-1-20;  
4 102-350, eff. 8-13-21.)

5 (730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

6 Sec. 3-10-2. Examination of persons committed to the  
7 Department of Juvenile Justice.

8 (a) A person committed to the Department of Juvenile  
9 Justice shall be examined in regard to his medical,  
10 psychological, social, educational and vocational condition  
11 and history, including the use of alcohol and other drugs, the  
12 circumstances of his offense and any other information as the  
13 Department of Juvenile Justice may determine.

14 (a-5) Upon admission of a person committed to the  
15 Department of Juvenile Justice, the Department of Juvenile  
16 Justice must provide the person with appropriate information  
17 concerning HIV and AIDS in writing, verbally, or by video or  
18 other electronic means. The Department of Juvenile Justice  
19 shall develop the informational materials in consultation with  
20 the Department of Public Health. At the same time, the  
21 Department of Juvenile Justice also must offer the person the  
22 option of being tested, at no charge to the person, for  
23 infection with human immunodeficiency virus (HIV). Pre-test  
24 information shall be provided to the committed person and  
25 informed consent obtained as required in subsection (q) of

1 Section 3 and Section 5 of the AIDS Confidentiality Act. The  
2 Department of Juvenile Justice may conduct opt-out HIV testing  
3 as defined in Section 4 of the AIDS Confidentiality Act. If the  
4 Department conducts opt-out HIV testing, the Department shall  
5 place signs in English, Spanish and other languages as needed  
6 in multiple, highly visible locations in the area where HIV  
7 testing is conducted informing inmates that they will be  
8 tested for HIV unless they refuse, and refusal or acceptance  
9 of testing shall be documented in the inmate's medical record.  
10 The Department shall follow procedures established by the  
11 Department of Public Health to conduct HIV testing and testing  
12 to confirm positive HIV test results. All testing must be  
13 conducted by medical personnel, but pre-test and other  
14 information may be provided by committed persons who have  
15 received appropriate training. The Department, in conjunction  
16 with the Department of Public Health, shall develop a plan  
17 that complies with the AIDS Confidentiality Act to deliver  
18 confidentially all positive or negative HIV test results to  
19 inmates or former inmates. Nothing in this Section shall  
20 require the Department to offer HIV testing to an inmate who is  
21 known to be infected with HIV, or who has been tested for HIV  
22 within the previous 180 days and whose documented HIV test  
23 result is available to the Department electronically. The  
24 testing provided under this subsection (a-5) shall consist of  
25 a test approved by the Illinois Department of Public Health to  
26 determine the presence of HIV infection, based upon

1 recommendations of the United States Centers for Disease  
2 Control and Prevention. If the test result is positive, a  
3 reliable supplemental test based upon recommendations of the  
4 United States Centers for Disease Control and Prevention shall  
5 be administered.

6 Also, upon the admission of a person committed to the  
7 Department of Juvenile Justice, the Department of Juvenile  
8 Justice must inform the person of the Department's obligation  
9 to provide the person with medical care.

10 (b) Based on its examination, the Department of Juvenile  
11 Justice may exercise the following powers in developing a  
12 treatment program of any person committed to the Department of  
13 Juvenile Justice:

14 (1) Require participation by him in vocational,  
15 physical, educational and corrective training and  
16 activities to return him to the community.

17 (2) Place him in any institution or facility of the  
18 Department of Juvenile Justice.

19 (3) Order replacement or referral to the Parole and  
20 Pardon Board as often as it deems desirable. The  
21 Department of Juvenile Justice shall refer the person to  
22 the Parole and Pardon Board as required under Section  
23 3-3-4.

24 (4) Enter into agreements with the Secretary of Human  
25 Services and the Director of Children and Family Services,  
26 with courts having probation officers, and with private

1 agencies or institutions for separate care or special  
2 treatment of persons subject to the control of the  
3 Department of Juvenile Justice.

4 (c) The Department of Juvenile Justice shall make periodic  
5 reexamination of all persons under the control of the  
6 Department of Juvenile Justice to determine whether existing  
7 orders in individual cases should be modified or continued.  
8 This examination shall be made with respect to every person at  
9 least once annually.

10 (d) A record of the treatment decision, including any  
11 modification thereof and the reason therefor, shall be part of  
12 the committed person's master record file.

13 (e) The Department of Juvenile Justice shall by regular  
14 mail and telephone or electronic message notify the parent,  
15 guardian, or nearest relative of any person committed to the  
16 Department of Juvenile Justice of his or her physical location  
17 and any change of his or her physical location.

18 (f) Each institution and facility of the Department of  
19 Juvenile Justice shall provide educational and vocational  
20 training for all persons committed to the Department.

21 (Source: P.A. 100-19, eff. 1-1-18; 100-700, eff. 8-3-18;  
22 101-81, eff. 7-12-19.)

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