



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/09/04, by Patricia Bailey

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2	from Ch. 38, par. 1003-6-2
730 ILCS 5/3-7-2	from Ch. 38, par. 1003-7-2

Amends the Unified Code of Corrections. Provides that upon the incarceration of any inmate, the Department shall require the testing of the inmate for infection with human immunodeficiency virus (HIV) and any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Prohibits the Department of Corrections or a correctional facility of the Department of Corrections from including condoms as prison contraband.

LRB093 18502 RLC 44219 b

FISCAL NOTE ACT
MAY APPLY

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 3-7-2 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 of
14 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 State,
21 subject to the acceptance of such receiving institution or
22 facility, or to designate any reasonably secure place in the
23 State as such an institution or facility and to make transfers
24 thereto. However, transfers made under emergency powers shall
25 be reviewed as soon as practicable under Article 8, and shall
26 be subject to Section 5-905 of the Juvenile Court Act of 1987.
27 This Section shall not apply to transfers to the Department of
28 Human Services which are provided for under Section 3-8-5 or
29 Section 3-10-5.

30 (d) The Department shall provide educational programs for
31 all committed persons so that all persons have an opportunity
32 to attain the achievement level equivalent to the completion of

1 the twelfth grade in the public school system in this State.
2 Other higher levels of attainment shall be encouraged and
3 professional instruction shall be maintained wherever
4 possible. The Department may establish programs of mandatory
5 education and may establish rules and regulations for the
6 administration of such programs. A person committed to the
7 Department who, during the period of his or her incarceration,
8 participates in an educational program provided by or through
9 the Department and through that program is awarded or earns the
10 number of hours of credit required for the award of an
11 associate, baccalaureate, or higher degree from a community
12 college, college, or university located in Illinois shall
13 reimburse the State, through the Department, for the costs
14 incurred by the State in providing that person during his or
15 her incarceration with the education that qualifies him or her
16 for the award of that degree. The costs for which reimbursement
17 is required under this subsection shall be determined and
18 computed by the Department under rules and regulations that it
19 shall establish for that purpose. However, interest at the rate
20 of 6% per annum shall be charged on the balance of those costs
21 from time to time remaining unpaid, from the date of the
22 person's parole, mandatory supervised release, or release
23 constituting a final termination of his or her commitment to
24 the Department until paid.

25 (e) A person committed to the Department who becomes in
26 need of medical or surgical treatment but is incapable of
27 giving consent thereto shall receive such medical or surgical
28 treatment by the chief administrative officer consenting on the
29 person's behalf. Before the chief administrative officer
30 consents, he or she shall obtain the advice of one or more
31 physicians licensed to practice medicine in all its branches in
32 this State. If such physician or physicians advise:

33 (1) that immediate medical or surgical treatment is
34 required relative to a condition threatening to cause
35 death, damage or impairment to bodily functions, or
36 disfigurement; and

1 (2) that the person is not capable of giving consent to
2 such treatment; the chief administrative officer may give
3 consent for such medical or surgical treatment, and such
4 consent shall be deemed to be the consent of the person for
5 all purposes, including, but not limited to, the authority
6 of a physician to give such treatment.

7 (f) In the event that the person requires medical care and
8 treatment at a place other than the institution or facility,
9 the person may be removed therefrom under conditions prescribed
10 by the Department. The Department shall require the committed
11 person receiving medical or dental services on a non-emergency
12 basis to pay a \$2 co-payment to the Department for each visit
13 for medical or dental services. The amount of each co-payment
14 shall be deducted from the committed person's individual
15 account. A committed person who has a chronic illness, as
16 defined by Department rules and regulations, shall be exempt
17 from the \$2 co-payment for treatment of the chronic illness. A
18 committed person shall not be subject to a \$2 co-payment for
19 follow-up visits ordered by a physician, who is employed by, or
20 contracts with, the Department. A committed person who is
21 indigent is exempt from the \$2 co-payment and is entitled to
22 receive medical or dental services on the same basis as a
23 committed person who is financially able to afford the
24 co-payment. Notwithstanding any other provision in this
25 subsection (f) to the contrary, any person committed to any
26 facility operated by the Juvenile Division, as set forth in
27 subsection (b) of Section 3-2-5 of this Code, is exempt from
28 the co-payment requirement for the duration of confinement in
29 those facilities.

30 (g) Any person having sole custody of a child at the time
31 of commitment or any woman giving birth to a child after her
32 commitment, may arrange through the Department of Children and
33 Family Services for suitable placement of the child outside of
34 the Department of Corrections. The Director of the Department
35 of Corrections may determine that there are special reasons why
36 the child should continue in the custody of the mother until

1 the child is 6 years old.

2 (h) The Department may provide Family Responsibility
3 Services which may consist of, but not be limited to the
4 following:

5 (1) family advocacy counseling;

6 (2) parent self-help group;

7 (3) parenting skills training;

8 (4) parent and child overnight program;

9 (5) parent and child reunification counseling, either
10 separately or together, preceding the inmate's release;
11 and

12 (6) a prerelease reunification staffing involving the
13 family advocate, the inmate and the child's counselor, or
14 both and the inmate.

15 (h-5) Upon the incarceration of any inmate, the Department
16 shall require the testing of the inmate for infection with
17 human immunodeficiency virus (HIV) and any other identified
18 causative agent of acquired immunodeficiency syndrome (AIDS).
19 The testing provided under this subsection (h-5) shall consist
20 of an enzyme-linked immunosorbent assay (ELISA) test or such
21 other test as may be approved by the Illinois Department of
22 Public Health. If the test result is positive, the Western Blot
23 Assay or more reliable confirmatory test shall be administered.
24 Notwithstanding any provision of this subsection (h-5) to the
25 contrary, the Department shall not be required to conduct the
26 testing required by this subsection (h-5) if the inmate was
27 required to be tested under subsection (g) or (h) of Section
28 5-5-3 of this Code and the Department, in consultation with the
29 Illinois Department of Public Health, determines that testing
30 is not necessary because the inmate had previously tested
31 positive for infection with human immunodeficiency virus (HIV)
32 and any other identified causative agent of acquired
33 immunodeficiency syndrome (AIDS).

34 (i) Prior to the release of any inmate who has a documented
35 history of intravenous drug use, and upon the receipt of that
36 inmate's written informed consent, the Department shall

1 provide for the testing of such inmate for infection with human
2 immunodeficiency virus (HIV) and any other identified
3 causative agent of acquired immunodeficiency syndrome (AIDS).
4 The testing provided under this subsection shall consist of an
5 enzyme-linked immunosorbent assay (ELISA) test or such other
6 test as may be approved by the Illinois Department of Public
7 Health. If the test result is positive, the Western Blot Assay
8 or more reliable confirmatory test shall be administered. All
9 inmates tested in accordance with the provisions of this
10 subsection shall be provided with pre-test and post-test
11 counseling. Notwithstanding any provision of this subsection
12 to the contrary, the Department shall not be required to
13 conduct the testing and counseling required by this subsection
14 unless sufficient funds to cover all costs of such testing and
15 counseling are appropriated for that purpose by the General
16 Assembly.

17 (j) Any person convicted of a sex offense as defined in the
18 Sex Offender Management Board Act shall be required to receive
19 a sex offender evaluation prior to release into the community
20 from the Department of Corrections. The sex offender evaluation
21 shall be conducted in conformance with the standards and
22 guidelines developed under the Sex Offender Management Board
23 Act and by an evaluator approved by the Board.

24 (k) Any minor committed to the Department of
25 Corrections-Juvenile Division for a sex offense as defined by
26 the Sex Offender Management Board Act shall be required to
27 undergo sex offender treatment by a treatment provider approved
28 by the Board and conducted in conformance with the Sex Offender
29 Management Board Act.

30 (Source: P.A. 92-292, eff. 8-9-01; 93-616, eff. 1-1-04.)

31 (730 ILCS 5/3-7-2) (from Ch. 38, par. 1003-7-2)

32 Sec. 3-7-2. Facilities.

33 (a) All institutions and facilities of the Department shall
34 provide every committed person with access to toilet
35 facilities, barber facilities, bathing facilities at least

1 once each week, a library of legal materials and published
2 materials including newspapers and magazines approved by the
3 Director. A committed person may not receive any materials that
4 the Director deems pornographic.

5 (b) (Blank).

6 (c) All institutions and facilities of the Department shall
7 provide facilities for every committed person to leave his cell
8 for at least one hour each day unless the chief administrative
9 officer determines that it would be harmful or dangerous to the
10 security or safety of the institution or facility.

11 (d) All institutions and facilities of the Department shall
12 provide every committed person with a wholesome and nutritional
13 diet at regularly scheduled hours, drinking water, clothing
14 adequate for the season, bedding, soap and towels and medical
15 and dental care.

16 (e) All institutions and facilities of the Department shall
17 permit every committed person to send and receive an unlimited
18 number of uncensored letters, provided, however, that the
19 Director may order that mail be inspected and read for reasons
20 of the security, safety or morale of the institution or
21 facility.

22 (f) All of the institutions and facilities of the
23 Department shall permit every committed person to receive
24 visitors, except in case of abuse of the visiting privilege or
25 when the chief administrative officer determines that such
26 visiting would be harmful or dangerous to the security, safety
27 or morale of the institution or facility. The chief
28 administrative officer shall have the right to restrict
29 visitation to non-contact visits for reasons of safety,
30 security, and order, including, but not limited to, restricting
31 contact visits for committed persons engaged in gang activity.
32 No committed person in a super maximum security facility or on
33 disciplinary segregation is allowed contact visits. Any
34 committed person found in possession of illegal drugs or who
35 fails a drug test shall not be permitted contact visits for a
36 period of at least 6 months. Any committed person involved in

1 gang activities or found guilty of assault committed against a
2 Department employee shall not be permitted contact visits for a
3 period of at least 6 months.

4 (g) All institutions and facilities of the Department shall
5 permit religious ministrations and sacraments to be available
6 to every committed person, but attendance at religious services
7 shall not be required.

8 (h) Within 90 days after December 31, 1996, the Department
9 shall prohibit the use of curtains, cell-coverings, or any
10 other matter or object that obstructs or otherwise impairs the
11 line of vision into a committed person's cell.

12 (i) All institutions and facilities of the Department shall
13 permit a committed person to purchase, possess, and use
14 condoms. A committed person may not be denied any privileges or
15 good conduct credit because of the committed person's purchase,
16 possession, or use of condoms. Neither the Department nor an
17 institution or facility of the Department may declare condoms
18 as contraband.

19 (Source: P.A. 90-14, eff. 7-1-97; 91-912, eff. 7-7-00.)