



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by John J. Cullerton

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2

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

Amends the Unified Code of Corrections. Provides that if a physician providing medical care to a committed person on behalf of the Department of Corrections advises the chief administrative officer of the correctional institution that the committed person's mental or physical health has deteriorated as a result of the cessation of ingestion of food or liquid to the point where medical or surgical treatment is required to prevent death, damage, or impairment to bodily functions, the chief administrative officer may authorize such medical or surgical treatment.

LRB093 18595 RLC 44318 b

1 AN ACT concerning corrections.

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 3-6-2 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 (e-5) If a physician providing medical care to a committed
8 person on behalf of the Department advises the chief
9 administrative officer that the committed person's mental or
10 physical health has deteriorated as a result of the cessation
11 of ingestion of food or liquid to the point where medical or
12 surgical treatment is required to prevent death, damage, or
13 impairment to bodily functions, the chief administrative
14 officer may authorize such medical or surgical treatment.

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

1 those facilities.

2 (g) Any person having sole custody of a child at the time
3 of commitment or any woman giving birth to a child after her
4 commitment, may arrange through the Department of Children and
5 Family Services for suitable placement of the child outside of
6 the Department of Corrections. The Director of the Department
7 of Corrections may determine that there are special reasons why
8 the child should continue in the custody of the mother until
9 the child is 6 years old.

10 (h) The Department may provide Family Responsibility
11 Services which may consist of, but not be limited to the
12 following:

- 13 (1) family advocacy counseling;
- 14 (2) parent self-help group;
- 15 (3) parenting skills training;
- 16 (4) parent and child overnight program;
- 17 (5) parent and child reunification counseling, either
18 separately or together, preceding the inmate's release;
- 19 and

20 (6) a prerelease reunification staffing involving the
21 family advocate, the inmate and the child's counselor, or
22 both and the inmate.

23 (i) Prior to the release of any inmate who has a documented
24 history of intravenous drug use, and upon the receipt of that
25 inmate's written informed consent, the Department shall
26 provide for the testing of such inmate for infection with human
27 immunodeficiency virus (HIV) and any other identified
28 causative agent of acquired immunodeficiency syndrome (AIDS).
29 The testing provided under this subsection shall consist of an
30 enzyme-linked immunosorbent assay (ELISA) test or such other
31 test as may be approved by the Illinois Department of Public
32 Health. If the test result is positive, the Western Blot Assay
33 or more reliable confirmatory test shall be administered. All
34 inmates tested in accordance with the provisions of this
35 subsection shall be provided with pre-test and post-test
36 counseling. Notwithstanding any provision of this subsection

1 to the contrary, the Department shall not be required to
2 conduct the testing and counseling required by this subsection
3 unless sufficient funds to cover all costs of such testing and
4 counseling are appropriated for that purpose by the General
5 Assembly.

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

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

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