

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 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  
24 Department of Corrections shall develop a master plan for  
25 the screening and evaluation of persons committed to its  
26 custody who have alcohol or drug abuse problems, and for  
27 making appropriate treatment available to such persons;  
28 the Department shall report to the General Assembly on such  
29 plan not later than April 1, 1987. The maintenance and  
30 implementation of such plan shall be contingent upon the  
31 availability of funds.

32 (b-1) To create and implement, on January 1, 2002, a

1 pilot program to establish the effectiveness of  
2 pupillometer technology (the measurement of the pupil's  
3 reaction to light) as an alternative to a urine test for  
4 purposes of screening and evaluating persons committed to  
5 its custody who have alcohol or drug problems. The pilot  
6 program shall require the pupillometer technology to be  
7 used in at least one Department of Corrections facility.  
8 The Director may expand the pilot program to include an  
9 additional facility or facilities as he or she deems  
10 appropriate. A minimum of 4,000 tests shall be included in  
11 the pilot program. The Department must report to the  
12 General Assembly on the effectiveness of the program by  
13 January 1, 2003.

14 (b-5) To develop, in consultation with the Department  
15 of State Police, a program for tracking and evaluating each  
16 inmate from commitment through release for recording his or  
17 her gang affiliations, activities, or ranks.

18 (c) To maintain and administer all State correctional  
19 institutions and facilities under its control and to  
20 establish new ones as needed. Pursuant to its power to  
21 establish new institutions and facilities, the Department  
22 may, with the written approval of the Governor, authorize  
23 the Department of Central Management Services to enter into  
24 an agreement of the type described in subsection (d) of  
25 Section 405-300 of the Department of Central Management  
26 Services Law (20 ILCS 405/405-300). The Department shall  
27 designate those institutions which shall constitute the  
28 State Penitentiary System.

29 Pursuant to its power to establish new institutions and  
30 facilities, the Department may authorize the Department of  
31 Central Management Services to accept bids from counties  
32 and municipalities for the construction, remodeling or  
33 conversion of a structure to be leased to the Department of  
34 Corrections for the purposes of its serving as a  
35 correctional institution or facility. Such construction,  
36 remodeling or conversion may be financed with revenue bonds

1 issued pursuant to the Industrial Building Revenue Bond Act  
2 by the municipality or county. The lease specified in a bid  
3 shall be for a term of not less than the time needed to  
4 retire any revenue bonds used to finance the project, but  
5 not to exceed 40 years. The lease may grant to the State  
6 the option to purchase the structure outright.

7 Upon receipt of the bids, the Department may certify  
8 one or more of the bids and shall submit any such bids to  
9 the General Assembly for approval. Upon approval of a bid  
10 by a constitutional majority of both houses of the General  
11 Assembly, pursuant to joint resolution, the Department of  
12 Central Management Services may enter into an agreement  
13 with the county or municipality pursuant to such bid.

14 (c-5) To build and maintain regional juvenile  
15 detention centers and to charge a per diem to the counties  
16 as established by the Department to defray the costs of  
17 housing each minor in a center. In this subsection (c-5),  
18 "juvenile detention center" means a facility to house  
19 minors during pendency of trial who have been transferred  
20 from proceedings under the Juvenile Court Act of 1987 to  
21 prosecutions under the criminal laws of this State in  
22 accordance with Section 5-805 of the Juvenile Court Act of  
23 1987, whether the transfer was by operation of law or  
24 permissive under that Section. The Department shall  
25 designate the counties to be served by each regional  
26 juvenile detention center.

27 (d) To develop and maintain programs of control,  
28 rehabilitation and employment of committed persons within  
29 its institutions.

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

32 (f) To establish in cooperation with the Department of  
33 Transportation to supply a sufficient number of prisoners  
34 for use by the Department of Transportation to clean up the  
35 trash and garbage along State, county, township, or  
36 municipal highways as designated by the Department of

1           Transportation. The Department of Corrections, at the  
2           request of the Department of Transportation, shall furnish  
3           such prisoners at least annually for a period to be agreed  
4           upon between the Director of Corrections and the Director  
5           of Transportation. The prisoners used on this program shall  
6           be selected by the Director of Corrections on whatever  
7           basis he deems proper in consideration of their term,  
8           behavior and earned eligibility to participate in such  
9           program - where they will be outside of the prison facility  
10          but still in the custody of the Department of Corrections.  
11          Prisoners convicted of first degree murder, or a Class X  
12          felony, or armed violence, or aggravated kidnapping, or  
13          criminal sexual assault, aggravated criminal sexual abuse  
14          or a subsequent conviction for criminal sexual abuse, or  
15          forcible detention, or arson, or a prisoner adjudged a  
16          Habitual Criminal shall not be eligible for selection to  
17          participate in such program. The prisoners shall remain as  
18          prisoners in the custody of the Department of Corrections  
19          and such Department shall furnish whatever security is  
20          necessary. The Department of Transportation shall furnish  
21          trucks and equipment for the highway cleanup program and  
22          personnel to supervise and direct the program. Neither the  
23          Department of Corrections nor the Department of  
24          Transportation shall replace any regular employee with a  
25          prisoner.

26               (g) To maintain records of persons committed to it and  
27               to establish programs of research, statistics and  
28               planning.

29               (h) To investigate the grievances of any person  
30               committed to the Department, to inquire into any alleged  
31               misconduct by employees or committed persons, and to  
32               investigate the assets of committed persons to implement  
33               Section 3-7-6 of this Code; and for these purposes it may  
34               issue subpoenas and compel the attendance of witnesses and  
35               the production of writings and papers, and may examine  
36               under oath any witnesses who may appear before it; to also

1 investigate alleged violations of a parolee's or  
2 releasee's conditions of parole or release; and for this  
3 purpose it may issue subpoenas and compel the attendance of  
4 witnesses and the production of documents only if there is  
5 reason to believe that such procedures would provide  
6 evidence that such violations have occurred.

7 If any person fails to obey a subpoena issued under  
8 this subsection, the Director may apply to any circuit  
9 court to secure compliance with the subpoena. The failure  
10 to comply with the order of the court issued in response  
11 thereto shall be punishable as contempt of court.

12 (i) To appoint and remove the chief administrative  
13 officers, and administer programs of training and  
14 development of personnel of the Department. Personnel  
15 assigned by the Department to be responsible for the  
16 custody and control of committed persons or to investigate  
17 the alleged misconduct of committed persons or employees or  
18 alleged violations of a parolee's or releasee's conditions  
19 of parole shall be conservators of the peace for those  
20 purposes, and shall have the full power of peace officers  
21 outside of the facilities of the Department in the  
22 protection, arrest, retaking and reconfining of committed  
23 persons or where the exercise of such power is necessary to  
24 the investigation of such misconduct or violations.

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

29 (k) To administer all moneys and properties of the  
30 Department.

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

33 (l-5) In a confidential annual report to the Governor,  
34 the Department shall identify all inmate gangs by  
35 specifying each current gang's name, population and allied  
36 gangs. The Department shall further specify the number of

1 top leaders identified by the Department for each gang  
2 during the past year, and the measures taken by the  
3 Department to segregate each leader from his or her gang  
4 and allied gangs. The Department shall further report the  
5 current status of leaders identified and segregated in  
6 previous years. All leaders described in the report shall  
7 be identified by inmate number or other designation to  
8 enable tracking, auditing, and verification without  
9 revealing the names of the leaders. Because this report  
10 contains law enforcement intelligence information  
11 collected by the Department, the report is confidential and  
12 not subject to public disclosure.

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

15 (n) To establish rules and regulations for  
16 administering a system of good conduct credits,  
17 established in accordance with Section 3-6-3, subject to  
18 review by the Prisoner Review Board.

19 (o) To administer the distribution of funds from the  
20 State Treasury to reimburse counties where State penal  
21 institutions are located for the payment of assistant  
22 state's attorneys' salaries under Section 4-2001 of the  
23 Counties Code.

24 (p) To exchange information with the Department of  
25 Human Services and the Illinois Department of Public Aid  
26 for the purpose of verifying living arrangements and for  
27 other purposes directly connected with the administration  
28 of this Code and the Illinois Public Aid Code.

29 (q) To establish a diversion program.

30 The program shall provide a structured environment for  
31 selected technical parole or mandatory supervised release  
32 violators and committed persons who have violated the rules  
33 governing their conduct while in work release. This program  
34 shall not apply to those persons who have committed a new  
35 offense while serving on parole or mandatory supervised  
36 release or while committed to work release.

1 Elements of the program shall include, but shall not be  
2 limited to, the following:

3 (1) The staff of a diversion facility shall provide  
4 supervision in accordance with required objectives set  
5 by the facility.

6 (2) Participants shall be required to maintain  
7 employment.

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

11 (4) Each participant shall:

12 (A) provide restitution to victims in  
13 accordance with any court order;

14 (B) provide financial support to his  
15 dependents; and

16 (C) make appropriate payments toward any other  
17 court-ordered obligations.

18 (5) Each participant shall complete community  
19 service in addition to employment.

20 (6) Participants shall take part in such  
21 counseling, educational and other programs as the  
22 Department may deem appropriate.

23 (7) Participants shall submit to drug and alcohol  
24 screening.

25 (8) The Department shall promulgate rules  
26 governing the administration of the program.

27 (r) To enter into intergovernmental cooperation  
28 agreements under which persons in the custody of the  
29 Department may participate in a county impact  
30 incarceration program established under Section 3-6038 or  
31 3-15003.5 of the Counties Code.

32 (r-5) To enter into intergovernmental cooperation  
33 agreements under which minors adjudicated delinquent and  
34 committed to the Department of Corrections, Juvenile  
35 Division, may participate in a county juvenile impact  
36 incarceration program established under Section 3-6039 of

1 the Counties Code.

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

13 (i) are members of a criminal streetgang;

14 (ii) with respect to other individuals within the  
15 streetgang, occupy a position of organizer,  
16 supervisor, or other position of management or  
17 leadership; and

18 (iii) are actively and personally engaged in  
19 directing, ordering, authorizing, or requesting  
20 commission of criminal acts by others, which are  
21 punishable as a felony, in furtherance of streetgang  
22 related activity both within and outside of the  
23 Department of Corrections.

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

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

31 (t) To monitor any unprivileged conversation or any  
32 unprivileged communication, whether in person or by mail,  
33 telephone, or other means, between an inmate who, before  
34 commitment to the Department, was a member of an organized  
35 gang and any other person without the need to show cause or  
36 satisfy any other requirement of law before beginning the



1 monitoring, except as constitutionally required. The  
2 monitoring may be by video, voice, or other method of  
3 recording or by any other means. As used in this  
4 subdivision (1)(t), "organized gang" has the meaning  
5 ascribed to it in Section 10 of the Illinois Streetgang  
6 Terrorism Omnibus Prevention Act.

7 As used in this subdivision (1)(t), "unprivileged  
8 conversation" or "unprivileged communication" means a  
9 conversation or communication that is not protected by any  
10 privilege recognized by law or by decision, rule, or order  
11 of the Illinois Supreme Court.

12 (u) To establish a Women's and Children's Pre-release  
13 Community Supervision Program for the purpose of providing  
14 housing and services to eligible female inmates, as  
15 determined by the Department, and their newborn and young  
16 children.

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

19 (2) The Department of Corrections shall by January 1, 1998,  
20 consider building and operating a correctional facility within  
21 100 miles of a county of over 2,000,000 inhabitants, especially  
22 a facility designed to house juvenile participants in the  
23 impact incarceration program.

24 (3) When the Department lets bids for contracts for medical  
25 services to be provided to persons committed to Department  
26 facilities by a health maintenance organization, medical  
27 service corporation, or other health care provider, the bid may  
28 only be let to a health care provider that has obtained an  
29 irrevocable letter of credit or performance bond issued by a  
30 company whose bonds are rated AAA by a bond rating  
31 organization.

32 (3.5) All nurses registered or licensed under the Nursing  
33 and Advanced Practice Nursing Act performing services for the  
34 Department on a contractual basis as of the effective date of  
35 this amendatory Act of the 94th General Assembly shall become  
36 employees of the Department on the date immediately following

1 the effective date of this amendatory Act of the 94th General  
2 Assembly.

3 (4) When the Department lets bids for contracts for food or  
4 commissary services to be provided to Department facilities,  
5 the bid may only be let to a food or commissary services  
6 provider that has obtained an irrevocable letter of credit or  
7 performance bond issued by a company whose bonds are rated AAA  
8 by a bond rating organization.

9 (Source: P.A. 92-444, eff. 1-1-02; 92-712, eff. 1-1-03; 93-839,  
10 eff. 7-30-04.)