



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2574

Introduced 2/20/2009, by Rep. Deborah Mell

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-8-5

from Ch. 38, par. 1003-8-5

Amends the Unified Code of Corrections. Provides that if the committed person has been convicted of a felony DUI offense or a felony violation of the Illinois Controlled Substances Act, a felony violation of the Methamphetamine Control and Community Protection Act, or a felony violation of the Cannabis Control Act, he or she shall be assigned to an alcoholism or drug treatment program approved by the Department of Human Services. Provides that the Department of Corrections may provide treatment to such persons in a separate institution within the Department, or the Director of the Department of Corrections may transfer such person to the Department of Human Services for treatment for a period of not more than 6 months, if the person consents in writing to the transfer. Provides that the person shall be advised of his or her right not to consent, and if he or she does not consent, such transfer may be effected only by a court commitment order. Provides that the committed person shall pay the Department that provides the treatment \$100 for that treatment. Effective January 1, 2010.

LRB096 09529 RLC 19686 b

FISCAL NOTE ACT
MAY APPLY

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 3-8-5 as follows:

6 (730 ILCS 5/3-8-5) (from Ch. 38, par. 1003-8-5)

7 Sec. 3-8-5. Transfer to Department of Human Services.

8 (a) The Department shall cause inquiry and examination at
9 periodic intervals to ascertain whether any person committed to
10 it may be subject to involuntary admission, as defined in
11 Section 1-119 of the Mental Health and Developmental
12 Disabilities Code, or meets the standard for judicial admission
13 as defined in Section 4-500 of the Mental Health and
14 Developmental Disabilities Code, or is an addict, alcoholic or
15 intoxicated person as defined in the Alcoholism and Other Drug
16 Abuse and Dependency Act. The Department may provide special
17 psychiatric or psychological or other counseling or treatment
18 to such persons in a separate institution within the
19 Department, or the Director of the Department of Corrections
20 may transfer such persons other than addicts, alcoholics or
21 intoxicated persons to the Department of Human Services for
22 observation, diagnosis and treatment, subject to the approval
23 of the Director of the Department of Human Services, for a

1 period of not more than 6 months, if the person consents in
2 writing to the transfer. The person shall be advised of his
3 right not to consent, and if he does not consent, such transfer
4 may be effected only by commitment under paragraphs (c) and (d)
5 of this Section.

6 (a-5) If the committed person has been convicted of a
7 felony offense under Section 11-501 of the Illinois Vehicle
8 Code or a felony violation of the Illinois Controlled
9 Substances Act, a felony violation of the Methamphetamine
10 Control and Community Protection Act, or a felony violation of
11 the Cannabis Control Act, he or she shall be assigned to an
12 alcoholism or drug treatment program approved by the Department
13 of Human Services. The Department of Corrections may provide
14 treatment to such persons in a separate institution within the
15 Department, or the Director of the Department of Corrections
16 may transfer such person to the Department of Human Services
17 for treatment for a period of not more than 6 months, if the
18 person consents in writing to the transfer. The person shall be
19 advised of his or her right not to consent, and if he or she
20 does not consent, such transfer may be effected only by
21 commitment under paragraphs (c) and (d) of this Section. The
22 committed person shall pay the Department that provides the
23 treatment \$100 for that treatment.

24 (b) The person's spouse, guardian or nearest relative and
25 his attorney of record shall be advised of their right to
26 object, and if objection is made, such transfer may be effected

1 only by commitment under paragraph (c) of this Section. Notices
2 of such transfer shall be mailed to such person's spouse,
3 guardian or nearest relative and to the attorney of record
4 marked for delivery to addressee only at his last known address
5 by certified mail with return receipt requested together with
6 written notification of the manner and time within which he may
7 object thereto.

8 (c) If a committed person does not consent to his transfer
9 to the Department of Human Services or if a person objects
10 under paragraph (b) of this Section, or if the Department of
11 Human Services determines that a transferred person requires
12 commitment to the Department of Human Services for more than 6
13 months, or if the person's sentence will expire within 6
14 months, the Director of the Department of Corrections shall
15 file a petition in the circuit court of the county in which the
16 correctional institution or facility is located requesting the
17 transfer of such person to the Department of Human Services. A
18 certificate of a psychiatrist, clinical psychologist or, if
19 admission to a developmental disability facility is sought, of
20 a physician that the person is in need of commitment to the
21 Department of Human Services for treatment or habilitation
22 shall be attached to the petition. Copies of the petition shall
23 be furnished to the named person and to the state's attorneys
24 of the county in which the correctional institution or facility
25 is located and the county in which the named person was
26 committed to the Department of Corrections.

1 (d) The court shall set a date for a hearing on the
2 petition within the time limit set forth in the Mental Health
3 and Developmental Disabilities Code. The hearing shall be
4 conducted in the manner prescribed by the Mental Health and
5 Developmental Disabilities Code. If the person is found to be
6 in need of commitment to the Department of Human Services for
7 treatment or habilitation, the court may commit him to that
8 Department.

9 (e) Nothing in this Section shall limit the right of the
10 Director or the chief administrative officer of any institution
11 or facility to utilize the emergency admission provisions of
12 the Mental Health and Developmental Disabilities Code with
13 respect to any person in his custody or care. The transfer of a
14 person to an institution or facility of the Department of Human
15 Services under paragraph (a) of this Section does not discharge
16 the person from the control of the Department.

17 (Source: P.A. 88-670, eff. 12-2-94; 89-507, eff. 7-1-97.)

18 Section 99. Effective date. This Act takes effect January
19 1, 2010.