

# HB3890



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

**HB3890**

Introduced 2/26/2009, by Rep. LaShawn K. Ford

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2

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

Amends the Unified Code of Corrections. Makes a technical change in the Section concerning the administration of institutions and facilities of the Department of Corrections.

LRB096 11732 RLC 22470 b

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 3-6-2 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

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

7 (d) The Department shall provide educational programs for  
8 all committed persons so that all persons have an opportunity  
9 to attain the achievement level equivalent to the completion of  
10 the twelfth grade in the public school system in this State.  
11 Other higher levels of attainment shall be encouraged and  
12 professional instruction shall be maintained wherever  
13 possible. The Department may establish programs of mandatory  
14 education and may establish rules and regulations for the  
15 administration of such programs. A person committed to the  
16 Department who, during the period of his or her incarceration,  
17 participates in an educational program provided by or through  
18 the Department and through that program is awarded or earns the  
19 number of hours of credit required for the award of an  
20 associate, baccalaureate, or higher degree from a community  
21 college, college, or university located in Illinois shall  
22 reimburse the State, through the Department, for the costs  
23 incurred by the State in providing that person during his or  
24 her incarceration with the education that qualifies him or her  
25 for the award of that degree. The costs for which reimbursement  
26 is required under this subsection shall be determined and

1 computed by the Department under rules and regulations that it  
2 shall establish for that purpose. However, interest at the rate  
3 of 6% per annum shall be charged on the balance of those costs  
4 from time to time remaining unpaid, from the date of the  
5 person's parole, mandatory supervised release, or release  
6 constituting a final termination of his or her commitment to  
7 the Department until paid.

8 (d-5) A person committed to the Department is entitled to  
9 confidential testing for infection with human immunodeficiency  
10 virus (HIV) and to counseling in connection with such testing,  
11 with no copay to the committed person. A person committed to  
12 the Department who has tested positive for infection with HIV  
13 is entitled to medical care while incarcerated, counseling, and  
14 referrals to support services, in connection with that positive  
15 test result. Implementation of this subsection (d-5) is subject  
16 to appropriation.

17 (e) A person committed to the Department who becomes in  
18 need of medical or surgical treatment but is incapable of  
19 giving consent thereto shall receive such medical or surgical  
20 treatment by the chief administrative officer consenting on the  
21 person's behalf. Before the chief administrative officer  
22 consents, he or she shall obtain the advice of one or more  
23 physicians licensed to practice medicine in all its branches in  
24 this State. If such physician or physicians advise:

25 (1) that immediate medical or surgical treatment is  
26 required relative to a condition threatening to cause

1 death, damage or impairment to bodily functions, or  
2 disfigurement; and

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

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

17 (f) In the event that the person requires medical care and  
18 treatment at a place other than the institution or facility,  
19 the person may be removed therefrom under conditions prescribed  
20 by the Department. The Department shall require the committed  
21 person receiving medical or dental services on a non-emergency  
22 basis to pay a \$2 co-payment to the Department for each visit  
23 for medical or dental services. The amount of each co-payment  
24 shall be deducted from the committed person's individual  
25 account. A committed person who has a chronic illness, as  
26 defined by Department rules and regulations, shall be exempt

1 from the \$2 co-payment for treatment of the chronic illness. A  
2 committed person shall not be subject to a \$2 co-payment for  
3 follow-up visits ordered by a physician, who is employed by, or  
4 contracts with, the Department. A committed person who is  
5 indigent is exempt from the \$2 co-payment and is entitled to  
6 receive medical or dental services on the same basis as a  
7 committed person who is financially able to afford the  
8 co-payment. Notwithstanding any other provision in this  
9 subsection (f) to the contrary, any person committed to any  
10 facility operated by the Department of Juvenile Justice, as set  
11 forth in Section 3-2.5-15 of this Code, is exempt from the  
12 co-payment requirement for the duration of confinement in those  
13 facilities.

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

22 (h) The Department may provide Family Responsibility  
23 Services which may consist of, but not be limited to the  
24 following:

- 25 (1) family advocacy counseling;  
26 (2) parent self-help group;

- 1 (3) parenting skills training;
- 2 (4) parent and child overnight program;
- 3 (5) parent and child reunification counseling, either  
4 separately or together, preceding the inmate's release;  
5 and
- 6 (6) a prerelease reunification staffing involving the  
7 family advocate, the inmate and the child's counselor, or  
8 both and the inmate.
- 9 (i) Prior ~~Prior~~ to the release of any inmate who has a  
10 documented history of intravenous drug use, and upon the  
11 receipt of that inmate's written informed consent, the  
12 Department shall provide for the testing of such inmate for  
13 infection with human immunodeficiency virus (HIV) and any other  
14 identified causative agent of acquired immunodeficiency  
15 syndrome (AIDS). The testing provided under this subsection  
16 shall consist of an enzyme-linked immunosorbent assay (ELISA)  
17 test or such other test as may be approved by the Illinois  
18 Department of Public Health. If the test result is positive,  
19 the Western Blot Assay or more reliable confirmatory test shall  
20 be administered. All inmates tested in accordance with the  
21 provisions of this subsection shall be provided with pre-test  
22 and post-test counseling. Notwithstanding any provision of  
23 this subsection to the contrary, the Department shall not be  
24 required to conduct the testing and counseling required by this  
25 subsection unless sufficient funds to cover all costs of such  
26 testing and counseling are appropriated for that purpose by the

1 General Assembly.

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

9 (k) Any minor committed to the Department of Juvenile  
10 Justice for a sex offense as defined by the Sex Offender  
11 Management Board Act shall be required to undergo sex offender  
12 treatment by a treatment provider approved by the Board and  
13 conducted in conformance with the Sex Offender Management Board  
14 Act.

15 (l) Prior to the release of any inmate, the Department must  
16 provide the inmate with the option of testing for infection  
17 with human immunodeficiency virus (HIV), as well as counseling  
18 in connection with such testing, with no copayment for the  
19 test. At the same time, the Department shall require each such  
20 inmate to sign a form stating that the inmate has been informed  
21 of his or her rights with respect to the testing required to be  
22 offered under this subsection (l) and providing the inmate with  
23 an opportunity to indicate either that he or she wants to be  
24 tested or that he or she does not want to be tested. The  
25 Department, in consultation with the Department of Public  
26 Health, shall prescribe the contents of the form. The testing



1 provided under this subsection (1) shall consist of an  
2 enzyme-linked immunosorbent assay (ELISA) test or any other  
3 test approved by the Department of Public Health. If the test  
4 result is positive, the Western Blot Assay or more reliable  
5 confirmatory test shall be administered.

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

10 Implementation of this subsection (1) is subject to  
11 appropriation.

12 (Source: P.A. 93-616, eff. 1-1-04; 93-928, eff. 1-1-05; 94-629,  
13 eff. 1-1-06; 94-696, eff. 6-1-06.)