



Sen. John M. Sullivan

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1 AMENDMENT TO HOUSE BILL 4236

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4236 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Labor Relations Act is  
5 amended by changing Section 3 as follows:

6 (5 ILCS 315/3) (from Ch. 48, par. 1603)

7 Sec. 3. Definitions. As used in this Act, unless the  
8 context otherwise requires:

9 (a) "Board" means the Illinois Labor Relations Board or,  
10 with respect to a matter over which the jurisdiction of the  
11 Board is assigned to the State Panel or the Local Panel under  
12 Section 5, the panel having jurisdiction over the matter.

13 (b) "Collective bargaining" means bargaining over terms  
14 and conditions of employment, including hours, wages, and other  
15 conditions of employment, as detailed in Section 7 and which  
16 are not excluded by Section 4.

1           (c) "Confidential employee" means an employee who, in the  
2 regular course of his or her duties, assists and acts in a  
3 confidential capacity to persons who formulate, determine, and  
4 effectuate management policies with regard to labor relations  
5 or who, in the regular course of his or her duties, has  
6 authorized access to information relating to the effectuation  
7 or review of the employer's collective bargaining policies.

8           (d) "Craft employees" means skilled journeymen, crafts  
9 persons, and their apprentices and helpers.

10          (e) "Essential services employees" means those public  
11 employees performing functions so essential that the  
12 interruption or termination of the function will constitute a  
13 clear and present danger to the health and safety of the  
14 persons in the affected community.

15          (f) "Exclusive representative", except with respect to  
16 non-State fire fighters and paramedics employed by fire  
17 departments and fire protection districts, non-State peace  
18 officers, and peace officers in the Department of State Police,  
19 means the labor organization that has been (i) designated by  
20 the Board as the representative of a majority of public  
21 employees in an appropriate bargaining unit in accordance with  
22 the procedures contained in this Act, (ii) historically  
23 recognized by the State of Illinois or any political  
24 subdivision of the State before July 1, 1984 (the effective  
25 date of this Act) as the exclusive representative of the  
26 employees in an appropriate bargaining unit, (iii) after July

1 1, 1984 (the effective date of this Act) recognized by an  
2 employer upon evidence, acceptable to the Board, that the labor  
3 organization has been designated as the exclusive  
4 representative by a majority of the employees in an appropriate  
5 bargaining unit; (iv) recognized as the exclusive  
6 representative of personal care attendants or personal  
7 assistants under Executive Order 2003-8 prior to the effective  
8 date of this amendatory Act of the 93rd General Assembly, and  
9 the organization shall be considered to be the exclusive  
10 representative of the personal care attendants or personal  
11 assistants as defined in this Section; or (v) recognized as the  
12 exclusive representative of child and day care home providers,  
13 including licensed and license exempt providers, pursuant to an  
14 election held under Executive Order 2005-1 prior to the  
15 effective date of this amendatory Act of the 94th General  
16 Assembly, and the organization shall be considered to be the  
17 exclusive representative of the child and day care home  
18 providers as defined in this Section.

19 With respect to non-State fire fighters and paramedics  
20 employed by fire departments and fire protection districts,  
21 non-State peace officers, and peace officers in the Department  
22 of State Police, "exclusive representative" means the labor  
23 organization that has been (i) designated by the Board as the  
24 representative of a majority of peace officers or fire fighters  
25 in an appropriate bargaining unit in accordance with the  
26 procedures contained in this Act, (ii) historically recognized

1 by the State of Illinois or any political subdivision of the  
2 State before January 1, 1986 (the effective date of this  
3 amendatory Act of 1985) as the exclusive representative by a  
4 majority of the peace officers or fire fighters in an  
5 appropriate bargaining unit, or (iii) after January 1, 1986  
6 (the effective date of this amendatory Act of 1985) recognized  
7 by an employer upon evidence, acceptable to the Board, that the  
8 labor organization has been designated as the exclusive  
9 representative by a majority of the peace officers or fire  
10 fighters in an appropriate bargaining unit.

11 Where an historical pattern of representation exists for  
12 the workers of a private medical vendor prior to becoming  
13 certified employees under the Personnel Code, the Board shall  
14 find the labor organization that has historically represented  
15 the workers to be the exclusive representative under this Act,  
16 and shall find the unit represented by the exclusive  
17 representative to be the appropriate unit. Nothing shall  
18 preclude the exclusive representative of the workers from  
19 petitioning the Illinois Labor Relations Board for unit  
20 clarification to include any or all of the employees in an  
21 existing bargaining unit or units.

22 (g) "Fair share agreement" means an agreement between the  
23 employer and an employee organization under which all or any of  
24 the employees in a collective bargaining unit are required to  
25 pay their proportionate share of the costs of the collective  
26 bargaining process, contract administration, and pursuing

1 matters affecting wages, hours, and other conditions of  
2 employment, but not to exceed the amount of dues uniformly  
3 required of members. The amount certified by the exclusive  
4 representative shall not include any fees for contributions  
5 related to the election or support of any candidate for  
6 political office. Nothing in this subsection (g) shall preclude  
7 an employee from making voluntary political contributions in  
8 conjunction with his or her fair share payment.

9 (g-1) "Fire fighter" means, for the purposes of this Act  
10 only, any person who has been or is hereafter appointed to a  
11 fire department or fire protection district or employed by a  
12 state university and sworn or commissioned to perform fire  
13 fighter duties or paramedic duties, except that the following  
14 persons are not included: part-time fire fighters, auxiliary,  
15 reserve or voluntary fire fighters, including paid on-call fire  
16 fighters, clerks and dispatchers or other civilian employees of  
17 a fire department or fire protection district who are not  
18 routinely expected to perform fire fighter duties, or elected  
19 officials.

20 (g-2) "General Assembly of the State of Illinois" means the  
21 legislative branch of the government of the State of Illinois,  
22 as provided for under Article IV of the Constitution of the  
23 State of Illinois, and includes but is not limited to the House  
24 of Representatives, the Senate, the Speaker of the House of  
25 Representatives, the Minority Leader of the House of  
26 Representatives, the President of the Senate, the Minority

1 Leader of the Senate, the Joint Committee on Legislative  
2 Support Services and any legislative support services agency  
3 listed in the Legislative Commission Reorganization Act of  
4 1984.

5 (h) "Governing body" means, in the case of the State, the  
6 State Panel of the Illinois Labor Relations Board, the Director  
7 of the Department of Central Management Services, and the  
8 Director of the Department of Labor; the county board in the  
9 case of a county; the corporate authorities in the case of a  
10 municipality; and the appropriate body authorized to provide  
11 for expenditures of its funds in the case of any other unit of  
12 government.

13 (i) "Labor organization" means any organization in which  
14 public employees participate and that exists for the purpose,  
15 in whole or in part, of dealing with a public employer  
16 concerning wages, hours, and other terms and conditions of  
17 employment, including the settlement of grievances.

18 (j) "Managerial employee" means an individual who is  
19 engaged predominantly in executive and management functions  
20 and is charged with the responsibility of directing the  
21 effectuation of management policies and practices.

22 (k) "Peace officer" means, for the purposes of this Act  
23 only, any persons who have been or are hereafter appointed to a  
24 police force, department, or agency and sworn or commissioned  
25 to perform police duties, except that the following persons are  
26 not included: part-time police officers, special police

1 officers, auxiliary police as defined by Section 3.1-30-20 of  
2 the Illinois Municipal Code, night watchmen, "merchant  
3 police", court security officers as defined by Section 3-6012.1  
4 of the Counties Code, temporary employees, traffic guards or  
5 wardens, civilian parking meter and parking facilities  
6 personnel or other individuals specially appointed to aid or  
7 direct traffic at or near schools or public functions or to aid  
8 in civil defense or disaster, parking enforcement employees who  
9 are not commissioned as peace officers and who are not armed  
10 and who are not routinely expected to effect arrests, parking  
11 lot attendants, clerks and dispatchers or other civilian  
12 employees of a police department who are not routinely expected  
13 to effect arrests, or elected officials.

14 (l) "Person" includes one or more individuals, labor  
15 organizations, public employees, associations, corporations,  
16 legal representatives, trustees, trustees in bankruptcy,  
17 receivers, or the State of Illinois or any political  
18 subdivision of the State or governing body, but does not  
19 include the General Assembly of the State of Illinois or any  
20 individual employed by the General Assembly of the State of  
21 Illinois.

22 (m) "Professional employee" means any employee engaged in  
23 work predominantly intellectual and varied in character rather  
24 than routine mental, manual, mechanical or physical work;  
25 involving the consistent exercise of discretion and adjustment  
26 in its performance; of such a character that the output

1 produced or the result accomplished cannot be standardized in  
2 relation to a given period of time; and requiring advanced  
3 knowledge in a field of science or learning customarily  
4 acquired by a prolonged course of specialized intellectual  
5 instruction and study in an institution of higher learning or a  
6 hospital, as distinguished from a general academic education or  
7 from apprenticeship or from training in the performance of  
8 routine mental, manual, or physical processes; or any employee  
9 who has completed the courses of specialized intellectual  
10 instruction and study prescribed in this subsection (m) and is  
11 performing related work under the supervision of a professional  
12 person to qualify to become a professional employee as defined  
13 in this subsection (m).

14 (n) "Public employee" or "employee", for the purposes of  
15 this Act, means any individual employed by a public employer,  
16 including (i) interns and residents at public hospitals, (ii)  
17 as of the effective date of this amendatory Act of the 93rd  
18 General Assembly, but not before, personal care attendants and  
19 personal assistants working under the Home Services Program  
20 under Section 3 of the Disabled Persons Rehabilitation Act,  
21 subject to the limitations set forth in this Act and in the  
22 Disabled Persons Rehabilitation Act, and (iii) as of the  
23 effective date of this amendatory Act of the 94th General  
24 Assembly, but not before, child and day care home providers  
25 participating in the child care assistance program under  
26 Section 9A-11 of the Illinois Public Aid Code, subject to the



1 limitations set forth in this Act and in Section 9A-11 of the  
2 Illinois Public Aid Code, but excluding all of the following:  
3 employees of the General Assembly of the State of Illinois;  
4 elected officials; executive heads of a department; members of  
5 boards or commissions; the Executive Inspectors General; any  
6 special Executive Inspectors General; employees of each Office  
7 of an Executive Inspector General; commissioners and employees  
8 of the Executive Ethics Commission; the Auditor General's  
9 Inspector General; employees of the Office of the Auditor  
10 General's Inspector General; the Legislative Inspector  
11 General; any special Legislative Inspectors General; employees  
12 of the Office of the Legislative Inspector General;  
13 commissioners and employees of the Legislative Ethics  
14 Commission; employees of any agency, board or commission  
15 created by this Act; employees appointed to State positions of  
16 a temporary or emergency nature; all employees of school  
17 districts and higher education institutions except  
18 firefighters and peace officers employed by a state university;  
19 managerial employees; short-term employees; confidential  
20 employees; independent contractors; and supervisors except as  
21 provided in this Act.

22 Personal care attendants and personal assistants shall not  
23 be considered public employees for any purposes not  
24 specifically provided for in the amendatory Act of the 93rd  
25 General Assembly, including but not limited to, purposes of  
26 vicarious liability in tort and purposes of statutory

1 retirement or health insurance benefits. Personal care  
2 attendants and personal assistants shall not be covered by the  
3 State Employees Group Insurance Act of 1971 (5 ILCS 375/).

4 Child and day care home providers shall not be considered  
5 public employees for any purposes not specifically provided for  
6 in this amendatory Act of the 94th General Assembly, including  
7 but not limited to, purposes of vicarious liability in tort and  
8 purposes of statutory retirement or health insurance benefits.  
9 Child and day care home providers shall not be covered by the  
10 State Employees Group Insurance Act of 1971.

11 Notwithstanding Section 9, subsection (c), or any other  
12 provisions of this Act, all peace officers above the rank of  
13 captain in municipalities with more than 1,000,000 inhabitants  
14 shall be excluded from this Act.

15 (o) Except as otherwise in subsection (o-5), "public  
16 employer" or "employer" means the State of Illinois; any  
17 political subdivision of the State, unit of local government or  
18 school district; authorities including departments, divisions,  
19 bureaus, boards, commissions, or other agencies of the  
20 foregoing entities; and any person acting within the scope of  
21 his or her authority, express or implied, on behalf of those  
22 entities in dealing with its employees. As of the effective  
23 date of the amendatory Act of the 93rd General Assembly, but  
24 not before, the State of Illinois shall be considered the  
25 employer of the personal care attendants and personal  
26 assistants working under the Home Services Program under

1 Section 3 of the Disabled Persons Rehabilitation Act, subject  
2 to the limitations set forth in this Act and in the Disabled  
3 Persons Rehabilitation Act. The State shall not be considered  
4 to be the employer of personal care attendants and personal  
5 assistants for any purposes not specifically provided for in  
6 this amendatory Act of the 93rd General Assembly, including but  
7 not limited to, purposes of vicarious liability in tort and  
8 purposes of statutory retirement or health insurance benefits.  
9 Personal care attendants and personal assistants shall not be  
10 covered by the State Employees Group Insurance Act of 1971 (5  
11 ILCS 375/). As of the effective date of this amendatory Act of  
12 the 94th General Assembly but not before, the State of Illinois  
13 shall be considered the employer of the day and child care home  
14 providers participating in the child care assistance program  
15 under Section 9A-11 of the Illinois Public Aid Code, subject to  
16 the limitations set forth in this Act and in Section 9A-11 of  
17 the Illinois Public Aid Code. The State shall not be considered  
18 to be the employer of child and day care home providers for any  
19 purposes not specifically provided for in this amendatory Act  
20 of the 94th General Assembly, including but not limited to,  
21 purposes of vicarious liability in tort and purposes of  
22 statutory retirement or health insurance benefits. Child and  
23 day care home providers shall not be covered by the State  
24 Employees Group Insurance Act of 1971.

25 "Public employer" or "employer" as used in this Act,  
26 however, does not mean and shall not include the General

1 Assembly of the State of Illinois, the Executive Ethics  
2 Commission, the Offices of the Executive Inspectors General,  
3 the Legislative Ethics Commission, the Office of the  
4 Legislative Inspector General, the Office of the Auditor  
5 General's Inspector General, and educational employers or  
6 employers as defined in the Illinois Educational Labor  
7 Relations Act, except with respect to a state university in its  
8 employment of firefighters and peace officers. County boards  
9 and county sheriffs shall be designated as joint or  
10 co-employers of county peace officers appointed under the  
11 authority of a county sheriff. Nothing in this subsection (o)  
12 shall be construed to prevent the State Panel or the Local  
13 Panel from determining that employers are joint or  
14 co-employers.

15 (o-5) With respect to wages, fringe benefits, hours,  
16 holidays, vacations, proficiency examinations, sick leave, and  
17 other conditions of employment, the public employer of public  
18 employees who are court reporters, as defined in the Court  
19 Reporters Act, shall be determined as follows:

20 (1) For court reporters employed by the Cook County  
21 Judicial Circuit, the chief judge of the Cook County  
22 Circuit Court is the public employer and employer  
23 representative.

24 (2) For court reporters employed by the 12th, 18th,  
25 19th, and, on and after December 4, 2006, the 22nd judicial  
26 circuits, a group consisting of the chief judges of those

1 circuits, acting jointly by majority vote, is the public  
2 employer and employer representative.

3 (3) For court reporters employed by all other judicial  
4 circuits, a group consisting of the chief judges of those  
5 circuits, acting jointly by majority vote, is the public  
6 employer and employer representative.

7 (p) "Security employee" means an employee who is  
8 responsible for the supervision and control of inmates at  
9 correctional facilities. The term also includes other  
10 non-security employees in bargaining units having the majority  
11 of employees being responsible for the supervision and control  
12 of inmates at correctional facilities.

13 (q) "Short-term employee" means an employee who is employed  
14 for less than 2 consecutive calendar quarters during a calendar  
15 year and who does not have a reasonable assurance that he or  
16 she will be rehired by the same employer for the same service  
17 in a subsequent calendar year.

18 (r) "Supervisor" is an employee whose principal work is  
19 substantially different from that of his or her subordinates  
20 and who has authority, in the interest of the employer, to  
21 hire, transfer, suspend, lay off, recall, promote, discharge,  
22 direct, reward, or discipline employees, to adjust their  
23 grievances, or to effectively recommend any of those actions,  
24 if the exercise of that authority is not of a merely routine or  
25 clerical nature, but requires the consistent use of independent  
26 judgment. Except with respect to police employment, the term

1 "supervisor" includes only those individuals who devote a  
2 preponderance of their employment time to exercising that  
3 authority, State supervisors notwithstanding. In addition, in  
4 determining supervisory status in police employment, rank  
5 shall not be determinative. The Board shall consider, as  
6 evidence of bargaining unit inclusion or exclusion, the common  
7 law enforcement policies and relationships between police  
8 officer ranks and certification under applicable civil service  
9 law, ordinances, personnel codes, or Division 2.1 of Article 10  
10 of the Illinois Municipal Code, but these factors shall not be  
11 the sole or predominant factors considered by the Board in  
12 determining police supervisory status.

13 Notwithstanding the provisions of the preceding paragraph,  
14 in determining supervisory status in fire fighter employment,  
15 no fire fighter shall be excluded as a supervisor who has  
16 established representation rights under Section 9 of this Act.  
17 Further, in new fire fighter units, employees shall consist of  
18 fire fighters of the rank of company officer and below. If a  
19 company officer otherwise qualifies as a supervisor under the  
20 preceding paragraph, however, he or she shall not be included  
21 in the fire fighter unit. If there is no rank between that of  
22 chief and the highest company officer, the employer may  
23 designate a position on each shift as a Shift Commander, and  
24 the persons occupying those positions shall be supervisors. All  
25 other ranks above that of company officer shall be supervisors.

26 (s) (1) "Unit" means a class of jobs or positions that are

1 held by employees whose collective interests may suitably  
2 be represented by a labor organization for collective  
3 bargaining. Except with respect to non-State fire fighters  
4 and paramedics employed by fire departments and fire  
5 protection districts, non-State peace officers, and peace  
6 officers in the Department of State Police, a bargaining  
7 unit determined by the Board shall not include both  
8 employees and supervisors, or supervisors only, except as  
9 provided in paragraph (2) of this subsection (s) and except  
10 for bargaining units in existence on July 1, 1984 (the  
11 effective date of this Act). With respect to non-State fire  
12 fighters and paramedics employed by fire departments and  
13 fire protection districts, non-State peace officers, and  
14 peace officers in the Department of State Police, a  
15 bargaining unit determined by the Board shall not include  
16 both supervisors and nonsupervisors, or supervisors only,  
17 except as provided in paragraph (2) of this subsection (s)  
18 and except for bargaining units in existence on January 1,  
19 1986 (the effective date of this amendatory Act of 1985). A  
20 bargaining unit determined by the Board to contain peace  
21 officers shall contain no employees other than peace  
22 officers unless otherwise agreed to by the employer and the  
23 labor organization or labor organizations involved.  
24 Notwithstanding any other provision of this Act, a  
25 bargaining unit, including a historical bargaining unit,  
26 containing sworn peace officers of the Department of

1 Natural Resources (formerly designated the Department of  
2 Conservation) shall contain no employees other than such  
3 sworn peace officers upon the effective date of this  
4 amendatory Act of 1990 or upon the expiration date of any  
5 collective bargaining agreement in effect upon the  
6 effective date of this amendatory Act of 1990 covering both  
7 such sworn peace officers and other employees.

8 (2) Notwithstanding the exclusion of supervisors from  
9 bargaining units as provided in paragraph (1) of this  
10 subsection (s), a public employer may agree to permit its  
11 supervisory employees to form bargaining units and may  
12 bargain with those units. This Act shall apply if the  
13 public employer chooses to bargain under this subsection.

14 (3) Public employees who are court reporters, as  
15 defined in the Court Reporters Act, shall be divided into 3  
16 units for collective bargaining purposes. One unit shall be  
17 court reporters employed by the Cook County Judicial  
18 Circuit; one unit shall be court reporters employed by the  
19 12th, 18th, 19th, and, on and after December 4, 2006, the  
20 22nd judicial circuits; and one unit shall be court  
21 reporters employed by all other judicial circuits.

22 (Source: P.A. 94-98, eff. 7-1-05; 94-320, eff. 1-1-06; 95-331,  
23 eff. 8-21-07.)

24 Section 10. The Unified Code of Corrections is amended by  
25 changing Section 3-2-2 as follows:



1 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

2 Sec. 3-2-2. Powers and Duties of the Department.

3 (1) In addition to the powers, duties and responsibilities  
4 which are otherwise provided by law, the Department shall have  
5 the following powers:

6 (a) To accept persons committed to it by the courts of  
7 this State for care, custody, treatment and  
8 rehabilitation, and to accept federal prisoners and aliens  
9 over whom the Office of the Federal Detention Trustee is  
10 authorized to exercise the federal detention function for  
11 limited purposes and periods of time.

12 (b) To develop and maintain reception and evaluation  
13 units for purposes of analyzing the custody and  
14 rehabilitation needs of persons committed to it and to  
15 assign such persons to institutions and programs under its  
16 control or transfer them to other appropriate agencies. In  
17 consultation with the Department of Alcoholism and  
18 Substance Abuse (now the Department of Human Services), the  
19 Department of Corrections shall develop a master plan for  
20 the screening and evaluation of persons committed to its  
21 custody who have alcohol or drug abuse problems, and for  
22 making appropriate treatment available to such persons;  
23 the Department shall report to the General Assembly on such  
24 plan not later than April 1, 1987. The maintenance and  
25 implementation of such plan shall be contingent upon the

1 availability of funds.

2 (b-1) To create and implement, on January 1, 2002, a  
3 pilot program to establish the effectiveness of  
4 pupillometer technology (the measurement of the pupil's  
5 reaction to light) as an alternative to a urine test for  
6 purposes of screening and evaluating persons committed to  
7 its custody who have alcohol or drug problems. The pilot  
8 program shall require the pupillometer technology to be  
9 used in at least one Department of Corrections facility.  
10 The Director may expand the pilot program to include an  
11 additional facility or facilities as he or she deems  
12 appropriate. A minimum of 4,000 tests shall be included in  
13 the pilot program. The Department must report to the  
14 General Assembly on the effectiveness of the program by  
15 January 1, 2003.

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

20 (c) To maintain and administer all State correctional  
21 institutions and facilities under its control and to  
22 establish new ones as needed. Pursuant to its power to  
23 establish new institutions and facilities, the Department  
24 may, with the written approval of the Governor, authorize  
25 the Department of Central Management Services to enter into  
26 an agreement of the type described in subsection (d) of

1 Section 405-300 of the Department of Central Management  
2 Services Law (20 ILCS 405/405-300). The Department shall  
3 designate those institutions which shall constitute the  
4 State Penitentiary System.

5 Pursuant to its power to establish new institutions and  
6 facilities, the Department may authorize the Department of  
7 Central Management Services to accept bids from counties  
8 and municipalities for the construction, remodeling or  
9 conversion of a structure to be leased to the Department of  
10 Corrections for the purposes of its serving as a  
11 correctional institution or facility. Such construction,  
12 remodeling or conversion may be financed with revenue bonds  
13 issued pursuant to the Industrial Building Revenue Bond Act  
14 by the municipality or county. The lease specified in a bid  
15 shall be for a term of not less than the time needed to  
16 retire any revenue bonds used to finance the project, but  
17 not to exceed 40 years. The lease may grant to the State  
18 the option to purchase the structure outright.

19 Upon receipt of the bids, the Department may certify  
20 one or more of the bids and shall submit any such bids to  
21 the General Assembly for approval. Upon approval of a bid  
22 by a constitutional majority of both houses of the General  
23 Assembly, pursuant to joint resolution, the Department of  
24 Central Management Services may enter into an agreement  
25 with the county or municipality pursuant to such bid.

26 (c-5) To build and maintain regional juvenile

1 detention centers and to charge a per diem to the counties  
2 as established by the Department to defray the costs of  
3 housing each minor in a center. In this subsection (c-5),  
4 "juvenile detention center" means a facility to house  
5 minors during pendency of trial who have been transferred  
6 from proceedings under the Juvenile Court Act of 1987 to  
7 prosecutions under the criminal laws of this State in  
8 accordance with Section 5-805 of the Juvenile Court Act of  
9 1987, whether the transfer was by operation of law or  
10 permissive under that Section. The Department shall  
11 designate the counties to be served by each regional  
12 juvenile detention center.

13 (d) To develop and maintain programs of control,  
14 rehabilitation and employment of committed persons within  
15 its institutions.

16 (d-5) To provide a pre-release job preparation program  
17 for inmates at Illinois adult correctional centers.

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

20 (f) To establish in cooperation with the Department of  
21 Transportation to supply a sufficient number of prisoners  
22 for use by the Department of Transportation to clean up the  
23 trash and garbage along State, county, township, or  
24 municipal highways as designated by the Department of  
25 Transportation. The Department of Corrections, at the  
26 request of the Department of Transportation, shall furnish

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

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

1           (h) To investigate the grievances of any person  
2 committed to the Department, to inquire into any alleged  
3 misconduct by employees or committed persons, and to  
4 investigate the assets of committed persons to implement  
5 Section 3-7-6 of this Code; and for these purposes it may  
6 issue subpoenas and compel the attendance of witnesses and  
7 the production of writings and papers, and may examine  
8 under oath any witnesses who may appear before it; to also  
9 investigate alleged violations of a parolee's or  
10 releasee's conditions of parole or release; and for this  
11 purpose it may issue subpoenas and compel the attendance of  
12 witnesses and the production of documents only if there is  
13 reason to believe that such procedures would provide  
14 evidence that such violations have occurred.

15           If any person fails to obey a subpoena issued under  
16 this subsection, the Director may apply to any circuit  
17 court to secure compliance with the subpoena. The failure  
18 to comply with the order of the court issued in response  
19 thereto shall be punishable as contempt of court.

20           (i) To appoint and remove the chief administrative  
21 officers, and administer programs of training and  
22 development of personnel of the Department. Personnel  
23 assigned by the Department to be responsible for the  
24 custody and control of committed persons or to investigate  
25 the alleged misconduct of committed persons or employees or  
26 alleged violations of a parolee's or releasee's conditions

1 of parole shall be conservators of the peace for those  
2 purposes, and shall have the full power of peace officers  
3 outside of the facilities of the Department in the  
4 protection, arrest, retaking and reconfining of committed  
5 persons or where the exercise of such power is necessary to  
6 the investigation of such misconduct or violations.

7 (j) To cooperate with other departments and agencies  
8 and with local communities for the development of standards  
9 and programs for better correctional services in this  
10 State.

11 (k) To administer all moneys and properties of the  
12 Department.

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

15 (l-5) In a confidential annual report to the Governor,  
16 the Department shall identify all inmate gangs by  
17 specifying each current gang's name, population and allied  
18 gangs. The Department shall further specify the number of  
19 top leaders identified by the Department for each gang  
20 during the past year, and the measures taken by the  
21 Department to segregate each leader from his or her gang  
22 and allied gangs. The Department shall further report the  
23 current status of leaders identified and segregated in  
24 previous years. All leaders described in the report shall  
25 be identified by inmate number or other designation to  
26 enable tracking, auditing, and verification without

1 revealing the names of the leaders. Because this report  
2 contains law enforcement intelligence information  
3 collected by the Department, the report is confidential and  
4 not subject to public disclosure.

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

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

11 (o) To administer the distribution of funds from the  
12 State Treasury to reimburse counties where State penal  
13 institutions are located for the payment of assistant  
14 state's attorneys' salaries under Section 4-2001 of the  
15 Counties Code.

16 (p) To exchange information with the Department of  
17 Human Services and the Department of Healthcare and Family  
18 Services for the purpose of verifying living arrangements  
19 and for other purposes directly connected with the  
20 administration of this Code and the Illinois Public Aid  
21 Code.

22 (q) To establish a diversion program.

23 The program shall provide a structured environment for  
24 selected technical parole or mandatory supervised release  
25 violators and committed persons who have violated the rules  
26 governing their conduct while in work release. This program



1 shall not apply to those persons who have committed a new  
2 offense while serving on parole or mandatory supervised  
3 release or while committed to work release.

4 Elements of the program shall include, but shall not be  
5 limited to, the following:

6 (1) The staff of a diversion facility shall provide  
7 supervision in accordance with required objectives set  
8 by the facility.

9 (2) Participants shall be required to maintain  
10 employment.

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

14 (4) Each participant shall:

15 (A) provide restitution to victims in  
16 accordance with any court order;

17 (B) provide financial support to his  
18 dependents; and

19 (C) make appropriate payments toward any other  
20 court-ordered obligations.

21 (5) Each participant shall complete community  
22 service in addition to employment.

23 (6) Participants shall take part in such  
24 counseling, educational and other programs as the  
25 Department may deem appropriate.

26 (7) Participants shall submit to drug and alcohol

1 screening.

2 (8) The Department shall promulgate rules  
3 governing the administration of the program.

4 (r) To enter into intergovernmental cooperation  
5 agreements under which persons in the custody of the  
6 Department may participate in a county impact  
7 incarceration program established under Section 3-6038 or  
8 3-15003.5 of the Counties Code.

9 (r-5) (Blank).

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

21 (i) are members of a criminal streetgang;

22 (ii) with respect to other individuals within the  
23 streetgang, occupy a position of organizer,  
24 supervisor, or other position of management or  
25 leadership; and

26 (iii) are actively and personally engaged in

1 directing, ordering, authorizing, or requesting  
2 commission of criminal acts by others, which are  
3 punishable as a felony, in furtherance of streetgang  
4 related activity both within and outside of the  
5 Department of Corrections.

6 "Streetgang", "gang", and "streetgang related" have the  
7 meanings ascribed to them in Section 10 of the Illinois  
8 Streetgang Terrorism Omnibus Prevention Act.

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

13 (t) To monitor any unprivileged conversation or any  
14 unprivileged communication, whether in person or by mail,  
15 telephone, or other means, between an inmate who, before  
16 commitment to the Department, was a member of an organized  
17 gang and any other person without the need to show cause or  
18 satisfy any other requirement of law before beginning the  
19 monitoring, except as constitutionally required. The  
20 monitoring may be by video, voice, or other method of  
21 recording or by any other means. As used in this  
22 subdivision (1)(t), "organized gang" has the meaning  
23 ascribed to it in Section 10 of the Illinois Streetgang  
24 Terrorism Omnibus Prevention Act.

25 As used in this subdivision (1)(t), "unprivileged  
26 conversation" or "unprivileged communication" means a

1 conversation or communication that is not protected by any  
2 privilege recognized by law or by decision, rule, or order  
3 of the Illinois Supreme Court.

4 (u) To establish a Women's and Children's Pre-release  
5 Community Supervision Program for the purpose of providing  
6 housing and services to eligible female inmates, as  
7 determined by the Department, and their newborn and young  
8 children.

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

11 (2) The Department of Corrections shall by January 1, 1998,  
12 consider building and operating a correctional facility within  
13 100 miles of a county of over 2,000,000 inhabitants, especially  
14 a facility designed to house juvenile participants in the  
15 impact incarceration program.

16 (3) When the Department lets bids for contracts for medical  
17 services to be provided to persons committed to Department  
18 facilities by a health maintenance organization, medical  
19 service corporation, or other health care provider, the bid may  
20 only be let to a health care provider that has obtained an  
21 irrevocable letter of credit or performance bond issued by a  
22 company whose bonds are rated AAA by a bond rating  
23 organization.

24 (3.5) Effective July 1, 2009, all contracts between the  
25 State and outside contractors to provide workers for medical  
26 services and related support services at all facilities of the

1 Illinois Department of Corrections or the Department of  
2 Juvenile Justice shall be amended to allow for the conversion  
3 of vendor employees performing under the terms of a collective  
4 bargaining agreement to become employees of the State of  
5 Illinois. Upon amendment of the contracts, each worker or staff  
6 member employed under the terms of a collective bargaining  
7 agreement shall be offered certified employment status under  
8 the Personnel Code with the State of Illinois. The position  
9 offered to each person shall be at the same facility and shall  
10 consist of the same duties and hours as previously existed  
11 under the amended contract or contracts.

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

18 (Source: P.A. 93-839, eff. 7-30-04; 94-696, eff. 6-1-06;  
19 94-1067, eff. 8-1-06.)

20 Section 99. Effective date. This Act takes effect July 1,  
21 2009."