

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 Sections 3-6-2, 3-8-2, and 3-10-2 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) (Blank). ~~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 committed to a
16 facility of the Department or the Department of Juvenile
17 Justice, the Department must provide the inmate with
18 appropriate information verbally, in writing, by video, or
19 other electronic means, concerning HIV and AIDS. The Department
20 shall develop the informational materials in consultation with
21 the Department of Public Health. At the same time, the
22 Department must also offer the committed person the option of
23 testing for infection with human immunodeficiency virus (HIV),
24 ~~as well as counseling in connection with such testing,~~ with no
25 copayment for the test. Pre-test information shall be provided
26 to the committed person and informed consent obtained as

1 required in subsection (d) of Section 3 and Section 5 of the
2 AIDS Confidentiality Act. The Department may conduct opt-out
3 HIV testing as defined in Section 4 of the AIDS Confidentiality
4 Act. If the Department conducts opt-out HIV testing, the
5 Department shall place signs in English, Spanish and other
6 languages as needed in multiple, highly visible locations in
7 the area where HIV testing is conducted informing inmates that
8 they will be tested for HIV unless they refuse, and refusal or
9 acceptance of testing shall be documented in the inmate's
10 medical record. The Department shall follow procedures
11 established by the Department of Public Health to conduct HIV
12 testing and testing to confirm positive HIV test results. All
13 testing must be conducted by medical personnel, but pre-test
14 and other information may be provided by committed persons who
15 have received appropriate training. The Department, in
16 conjunction with the Department of Public Health, shall develop
17 a plan that complies with the AIDS Confidentiality Act to
18 deliver confidentially all positive or negative HIV test
19 results to inmates or former inmates. Nothing in this Section
20 shall require the Department to offer HIV testing to an inmate
21 who is known to be infected with HIV, or who has been tested
22 for HIV within the previous 180 days and whose documented HIV
23 test result is available to the Department electronically. ~~At~~
24 ~~the same time, the Department shall require each such inmate to~~
25 ~~sign a form stating that the inmate has been informed of his or~~
26 ~~her rights with respect to the testing required to be offered~~

1 ~~under this subsection (1) and providing the inmate with an~~
2 ~~opportunity to indicate either that he or she wants to be~~
3 ~~tested or that he or she does not want to be tested. The~~
4 ~~Department, in consultation with the Department of Public~~
5 ~~Health, shall prescribe the contents of the form. The testing~~
6 ~~provided under this subsection (1) shall consist of an~~
7 ~~enzyme linked immunosorbent assay (ELISA) test or any other~~
8 ~~test approved by the Department of Public Health. If the test~~
9 ~~result is positive, the Western Blot Assay or more reliable~~
10 ~~confirmatory test shall be administered.~~

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

15 ~~Implementation of this subsection (1) is subject to~~
16 ~~appropriation.~~

17 (m) The chief administrative officer of each institution or
18 facility of the Department shall make a room in the institution
19 or facility available for addiction recovery services to be
20 provided to committed persons on a voluntary basis. The
21 services shall be provided for one hour once a week at a time
22 specified by the chief administrative officer of the
23 institution or facility if the following conditions are met:

24 (1) the addiction recovery service contacts the chief
25 administrative officer to arrange the meeting;

26 (2) the committed person may attend the meeting for

1 addiction recovery services only if the committed person
2 uses pre-existing free time already available to the
3 committed person;

4 (3) all disciplinary and other rules of the institution
5 or facility remain in effect;

6 (4) the committed person is not given any additional
7 privileges to attend addiction recovery services;

8 (5) if the addiction recovery service does not arrange
9 for scheduling a meeting for that week, no addiction
10 recovery services shall be provided to the committed person
11 in the institution or facility for that week;

12 (6) the number of committed persons who may attend an
13 addiction recovery meeting shall not exceed 40 during any
14 session held at the correctional institution or facility;

15 (7) a volunteer seeking to provide addiction recovery
16 services under this subsection (m) must submit an
17 application to the Department of Corrections under
18 existing Department rules and the Department must review
19 the application within 60 days after submission of the
20 application to the Department; and

21 (8) each institution and facility of the Department
22 shall manage the addiction recovery services program
23 according to its own processes and procedures.

24 For the purposes of this subsection (m), "addiction
25 recovery services" means recovery services for alcoholics and
26 addicts provided by volunteers of recovery support services

1 recognized by the Department of Human Services.

2 (Source: P.A. 96-284, eff. 1-1-10.)

3 (730 ILCS 5/3-8-2) (from Ch. 38, par. 1003-8-2)

4 Sec. 3-8-2. Social Evaluation; physical examination;
5 HIV/AIDS.

6 (a) A social evaluation shall be made of a committed
7 person's medical, psychological, educational and vocational
8 condition and history, including the use of alcohol and other
9 drugs, the circumstances of his offense, and such other
10 information as the Department may determine. The committed
11 person shall be assigned to an institution or facility in so
12 far as practicable in accordance with the social evaluation.
13 Recommendations shall be made for medical, dental,
14 psychiatric, psychological and social service treatment.

15 (b) A record of the social evaluation shall be entered in
16 the committed person's master record file and shall be
17 forwarded to the institution or facility to which the person is
18 assigned.

19 (c) Upon admission to a correctional institution each
20 committed person shall be given a physical examination. If he
21 is suspected of having a communicable disease that in the
22 judgment of the Department medical personnel requires medical
23 isolation, the committed person shall remain in medical
24 isolation until it is no longer deemed medically necessary.

25 (d) Upon arrival at a reception and classification center

1 or an inmate's final destination, the Department must provide
2 the committed person with appropriate information in writing,
3 verbally, by video or other electronic means ~~written~~
4 ~~information and counseling~~ concerning HIV and AIDS. The
5 Department shall develop the informational ~~written~~ materials
6 in consultation with the Department of Public Health. At the
7 same time, the Department also must offer the committed person
8 the option of being tested, with no copayment, for infection
9 with human immunodeficiency virus (HIV). Pre-test information
10 shall be provided to the committed person and informed consent
11 obtained as required in subsection (d) of Section 3 and Section
12 5 of the AIDS Confidentiality Act. The Department may conduct
13 opt-out HIV testing as defined in Section 4 of the AIDS
14 Confidentiality Act. If the Department conducts opt-out HIV
15 testing, the Department shall place signs in English, Spanish
16 and other languages as needed in multiple, highly visible
17 locations in the area where HIV testing is conducted informing
18 inmates that they will be tested for HIV unless they refuse,
19 and refusal or acceptance of testing shall be documented in the
20 inmate's medical record. The Department shall follow
21 procedures established by the Department of Public Health to
22 conduct HIV testing and testing to confirm positive HIV test
23 results. All testing must be conducted by medical personnel,
24 but pre-test and other information may be provided by committed
25 persons who have received appropriate training. The
26 Department, in conjunction with the Department of Public

1 Health, shall develop a plan that complies with the AIDS
2 Confidentiality Act to deliver confidentially all positive or
3 negative HIV test results to inmates or former inmates. Nothing
4 in this Section shall require the Department to offer HIV
5 testing to an inmate who is known to be infected with HIV, or
6 who has been tested for HIV within the previous 180 days and
7 whose documented HIV test result is available to the Department
8 electronically. The Department shall require each committed
9 person to sign a form stating that the committed person has
10 been informed of his or her rights with respect to the testing
11 required to be offered under this subsection (d) and providing
12 the committed person with an opportunity to indicate either
13 that he or she wants to be tested or that he or she does not
14 want to be tested. The Department, in consultation with the
15 Department of Public Health, shall prescribe the contents of
16 the form. The testing provided under this subsection (d) shall
17 consist of an enzyme linked immunosorbent assay (ELISA) test or
18 any other test approved by the Department of Public Health. If
19 the test result is positive, the Western Blot Assay or more
20 reliable confirmatory test shall be administered.
21 Implementation of this subsection (d) is subject to
22 appropriation.

23 (Source: P.A. 94-629, eff. 1-1-06.)

24 (730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

25 Sec. 3-10-2. Examination of Persons Committed to the

1 Department of Juvenile Justice.

2 (a) A person committed to the Department of Juvenile
3 Justice shall be examined in regard to his medical,
4 psychological, social, educational and vocational condition
5 and history, including the use of alcohol and other drugs, the
6 circumstances of his offense and any other information as the
7 Department of Juvenile Justice may determine.

8 (a-5) Upon admission of a person committed to the
9 Department of Juvenile Justice, the Department of Juvenile
10 Justice must provide the person with appropriate information
11 ~~written information and counseling~~ concerning HIV and AIDS in
12 writing, verbally, or by video or other electronic means. The
13 Department of Juvenile Justice shall develop the informational
14 ~~written~~ materials in consultation with the Department of Public
15 Health. At the same time, the Department of Juvenile Justice
16 also must offer the person the option of being tested, at no
17 charge to the person, for infection with human immunodeficiency
18 virus (HIV). Pre-test information shall be provided to the
19 committed person and informed consent obtained as required in
20 subsection (d) of Section 3 and Section 5 of the AIDS
21 Confidentiality Act. The Department of Juvenile Justice may
22 conduct opt-out HIV testing as defined in Section 4 of the AIDS
23 Confidentiality Act. If the Department conducts opt-out HIV
24 testing, the Department shall place signs in English, Spanish
25 and other languages as needed in multiple, highly visible
26 locations in the area where HIV testing is conducted informing

1 inmates that they will be tested for HIV unless they refuse,
2 and refusal or acceptance of testing shall be documented in the
3 inmate's medical record. The Department shall follow
4 procedures established by the Department of Public Health to
5 conduct HIV testing and testing to confirm positive HIV test
6 results. All testing must be conducted by medical personnel,
7 but pre-test and other information may be provided by committed
8 persons who have received appropriate training. The
9 Department, in conjunction with the Department of Public
10 Health, shall develop a plan that complies with the AIDS
11 Confidentiality Act to deliver confidentially all positive or
12 negative HIV test results to inmates or former inmates. Nothing
13 in this Section shall require the Department to offer HIV
14 testing to an inmate who is known to be infected with HIV, or
15 who has been tested for HIV within the previous 180 days and
16 whose documented HIV test result is available to the Department
17 electronically. ~~or any other identified causative agent of~~
18 ~~acquired immunodeficiency syndrome (AIDS). The Department of~~
19 ~~Juvenile Justice shall require each person committed to the~~
20 ~~Department of Juvenile Justice to sign a form stating that the~~
21 ~~person has been informed of his or her rights with respect to~~
22 ~~the testing required to be offered under this subsection (a 5)~~
23 ~~and providing the person with an opportunity to indicate either~~
24 ~~that he or she wants to be tested or that he or she does not~~
25 ~~want to be tested. The Department of Juvenile Justice, in~~
26 ~~consultation with the Department of Public Health, shall~~

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

7 Also upon admission of a person committed to the Department
8 of Juvenile Justice, the Department of Juvenile Justice must
9 inform the person of the Department's obligation to provide the
10 person with medical care.

11 ~~Implementation of this subsection (a-5) is subject to~~
12 ~~appropriation.~~

13 (b) Based on its examination, the Department of Juvenile
14 Justice may exercise the following powers in developing a
15 treatment program of any person committed to the Department of
16 Juvenile Justice:

17 (1) Require participation by him in vocational,
18 physical, educational and corrective training and
19 activities to return him to the community.

20 (2) Place him in any institution or facility of the
21 Department of Juvenile Justice.

22 (3) Order replacement or referral to the Parole and
23 Pardon Board as often as it deems desirable. The Department
24 of Juvenile Justice shall refer the person to the Parole
25 and Pardon Board as required under Section 3-3-4.

26 (4) Enter into agreements with the Secretary of Human

1 Services and the Director of Children and Family Services,
2 with courts having probation officers, and with private
3 agencies or institutions for separate care or special
4 treatment of persons subject to the control of the
5 Department of Juvenile Justice.

6 (c) The Department of Juvenile Justice shall make periodic
7 reexamination of all persons under the control of the
8 Department of Juvenile Justice to determine whether existing
9 orders in individual cases should be modified or continued.
10 This examination shall be made with respect to every person at
11 least once annually.

12 (d) A record of the treatment decision including any
13 modification thereof and the reason therefor, shall be part of
14 the committed person's master record file.

15 (e) The Department of Juvenile Justice shall by certified
16 mail, return receipt requested, notify the parent, guardian or
17 nearest relative of any person committed to the Department of
18 Juvenile Justice of his physical location and any change
19 thereof.

20 (Source: P.A. 94-629, eff. 1-1-06; 94-696, eff. 6-1-06.)

21 Section 10. The County Jail Act is amended by changing
22 Section 17.10 as follows:

23 (730 ILCS 125/17.10)

24 Sec. 17.10. Requirements in connection with HIV/AIDS.

1 (a) In each county other than Cook, during the medical
2 admissions exam, the warden of the jail, a correctional officer
3 at the jail, or a member of the jail medical staff must provide
4 the prisoner with appropriate written information concerning
5 human immunodeficiency virus (HIV) and acquired
6 immunodeficiency syndrome (AIDS). The Department of Public
7 Health and community-based organizations certified to provide
8 HIV/AIDS testing must provide these informational materials to
9 the warden at no cost to the county. The warden, a correctional
10 officer, or a member of the jail medical staff must inform the
11 prisoner of the option of being tested for infection with HIV
12 by a certified local community-based agency or other available
13 medical provider at no charge to the prisoner.

14 (b) In Cook County, during the medical admissions exam, an
15 employee of the Cook County Health & Hospitals System ~~Bureau of~~
16 ~~Health Services~~ must provide the prisoner with appropriate
17 ~~written~~ information in writing, verbally or by video or other
18 electronic means concerning human immunodeficiency virus (HIV)
19 and acquired immunodeficiency syndrome (AIDS) and must also
20 provide the prisoner with option of testing for infection with
21 HIV or any other identified causative agent of AIDS, as well as
22 counseling in connection with such testing. The Cook County
23 Health & Hospitals System may provide the inmate with opt-out
24 human immunodeficiency virus (HIV) testing, as defined in
25 Section 4 of the AIDS Confidentiality Act, unless the inmate
26 refuses. If opt-out HIV testing is conducted, the Cook County

1 Health & Hospitals System shall place signs in English,
2 Spanish, and other languages as needed in multiple, highly
3 visible locations in the area where HIV testing is conducted
4 informing inmates that they will be tested for HIV unless they
5 refuse, and refusal or acceptance of testing shall be
6 documented in the inmate's medical record. Pre-test
7 information shall be provided to the inmate and informed
8 consent obtained from the inmate as required in subsection (d)
9 of Section 3 and Section 5 of the AIDS Confidentiality Act. The
10 Cook County Health & Hospitals System shall follow procedures
11 established by the Department of Public Health to conduct HIV
12 testing and testing to confirm positive HIV test results. All
13 aspects of HIV testing shall comply with the requirements of
14 the AIDS Confidentiality Act, including delivery of test
15 results, as determined by the Cook County Health & Hospitals
16 System in consultation with the Illinois Department of Public
17 Health. Nothing in this Section shall require the Cook County
18 Health & Hospitals System to offer HIV testing to inmates who
19 are known to be infected with HIV. The Department of Public
20 Health and community-based organizations certified to provide
21 HIV/AIDS testing may ~~must~~ provide these informational
22 materials to the Bureau at no cost to the county. ~~The testing~~
23 ~~provided under this subsection (b) shall be conducted by the~~
24 ~~Cook County Bureau of Health Services and shall consist of an~~
25 ~~enzyme-linked immunosorbent assay (ELISA) test or any other~~
26 ~~test approved by the Department of Public Health. If the test~~

1 ~~result is positive, the Western Blot Assay or more reliable~~
2 ~~confirmatory test shall be administered.~~

3 (c) In each county, the warden of the jail must make
4 appropriate written information concerning HIV/AIDS available
5 to every visitor to the jail. This information must include
6 information concerning persons or entities to contact for local
7 counseling and testing. The Department of Public Health and
8 community-based organizations certified to provide HIV/AIDS
9 testing must provide these informational materials to the
10 warden at no cost to the office of the county sheriff.

11 (d) Implementation of this Section is subject to
12 appropriation.

13 (Source: P.A. 94-629, eff. 1-1-06.)

14 Section 99. Effective date. This Act takes effect August 1,
15 2011.