



Rep. Camille Y Lilly

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1 AMENDMENT TO HOUSE BILL 1748

2 AMENDMENT NO. _____. Amend House Bill 1748 by replacing
3 everything after the enacting clause with the following:

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.

1 (c) The Director or Assistant Director shall have the
2 emergency powers to temporarily transfer individuals without
3 formal procedures to any State, county, municipal or regional
4 correctional or detention institution or facility in the State,
5 subject to the acceptance of such receiving institution or
6 facility, or to designate any reasonably secure place in the
7 State as such an institution or facility and to make transfers
8 thereto. However, transfers made under emergency powers shall
9 be reviewed as soon as practicable under Article 8, and shall
10 be subject to Section 5-905 of the Juvenile Court Act of 1987.
11 This Section shall not apply to transfers to the Department of
12 Human Services which are provided for under Section 3-8-5 or
13 Section 3-10-5.

14 (d) The Department shall provide educational programs for
15 all committed persons so that all persons have an opportunity
16 to attain the achievement level equivalent to the completion of
17 the twelfth grade in the public school system in this State.
18 Other higher levels of attainment shall be encouraged and
19 professional instruction shall be maintained wherever
20 possible. The Department may establish programs of mandatory
21 education and may establish rules and regulations for the
22 administration of such programs. A person committed to the
23 Department who, during the period of his or her incarceration,
24 participates in an educational program provided by or through
25 the Department and through that program is awarded or earns the
26 number of hours of credit required for the award of an

1 associate, baccalaureate, or higher degree from a community
2 college, college, or university located in Illinois shall
3 reimburse the State, through the Department, for the costs
4 incurred by the State in providing that person during his or
5 her incarceration with the education that qualifies him or her
6 for the award of that degree. The costs for which reimbursement
7 is required under this subsection shall be determined and
8 computed by the Department under rules and regulations that it
9 shall establish for that purpose. However, interest at the rate
10 of 6% per annum shall be charged on the balance of those costs
11 from time to time remaining unpaid, from the date of the
12 person's parole, mandatory supervised release, or release
13 constituting a final termination of his or her commitment to
14 the Department until paid.

15 (d-5) A person committed to the Department is entitled to
16 confidential testing for infection with human immunodeficiency
17 virus (HIV) and to counseling in connection with such testing,
18 with no copay to the committed person. A person committed to
19 the Department who has tested positive for infection with HIV
20 is entitled to medical care while incarcerated, counseling, and
21 referrals to support services, in connection with that positive
22 test result. Implementation of this subsection (d-5) is subject
23 to appropriation.

24 (e) A person committed to the Department who becomes in
25 need of medical or surgical treatment but is incapable of
26 giving consent thereto shall receive such medical or surgical

1 treatment by the chief administrative officer consenting on the
2 person's behalf. Before the chief administrative officer
3 consents, he or she shall obtain the advice of one or more
4 physicians licensed to practice medicine in all its branches in
5 this State. If such physician or physicians advise:

6 (1) that immediate medical or surgical treatment is
7 required relative to a condition threatening to cause
8 death, damage or impairment to bodily functions, or
9 disfigurement; and

10 (2) that the person is not capable of giving consent to
11 such treatment; the chief administrative officer may give
12 consent for such medical or surgical treatment, and such
13 consent shall be deemed to be the consent of the person for
14 all purposes, including, but not limited to, the authority
15 of a physician to give such treatment.

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

24 (f) In the event that the person requires medical care and
25 treatment at a place other than the institution or facility,
26 the person may be removed therefrom under conditions prescribed

1 by the Department. The Department shall require the committed
2 person receiving medical or dental services on a non-emergency
3 basis to pay a \$2 co-payment to the Department for each visit
4 for medical or dental services. The amount of each co-payment
5 shall be deducted from the committed person's individual
6 account. A committed person who has a chronic illness, as
7 defined by Department rules and regulations, shall be exempt
8 from the \$2 co-payment for treatment of the chronic illness. A
9 committed person shall not be subject to a \$2 co-payment for
10 follow-up visits ordered by a physician, who is employed by, or
11 contracts with, the Department. A committed person who is
12 indigent is exempt from the \$2 co-payment and is entitled to
13 receive medical or dental services on the same basis as a
14 committed person who is financially able to afford the
15 co-payment. Notwithstanding any other provision in this
16 subsection (f) to the contrary, any person committed to any
17 facility operated by the Department of Juvenile Justice, as set
18 forth in Section 3-2.5-15 of this Code, is exempt from the
19 co-payment requirement for the duration of confinement in those
20 facilities.

21 (g) Any person having sole custody of a child at the time
22 of commitment or any woman giving birth to a child after her
23 commitment, may arrange through the Department of Children and
24 Family Services for suitable placement of the child outside of
25 the Department of Corrections. The Director of the Department
26 of Corrections may determine that there are special reasons why

1 the child should continue in the custody of the mother until
2 the child is 6 years old.

3 (h) The Department may provide Family Responsibility
4 Services which may consist of, but not be limited to the
5 following:

6 (1) family advocacy counseling;

7 (2) parent self-help group;

8 (3) parenting skills training;

9 (4) parent and child overnight program;

10 (5) parent and child reunification counseling, either
11 separately or together, preceding the inmate's release;
12 and

13 (6) a prerelease reunification staffing involving the
14 family advocate, the inmate and the child's counselor, or
15 both and the inmate.

16 (i) (Blank). ~~Prior to the release of any inmate who has a~~
17 ~~documented history of intravenous drug use, and upon the~~
18 ~~receipt of that inmate's written informed consent, the~~
19 ~~Department shall provide for the testing of such inmate for~~
20 ~~infection with human immunodeficiency virus (HIV) and any other~~
21 ~~identified causative agent of acquired immunodeficiency~~
22 ~~syndrome (AIDS). The testing provided under this subsection~~
23 ~~shall consist of an enzyme-linked immunosorbent assay (ELISA)~~
24 ~~test or such other test as may be approved by the Illinois~~
25 ~~Department of Public Health. If the test result is positive,~~
26 ~~the Western Blot Assay or more reliable confirmatory test shall~~

1 ~~be administered. All inmates tested in accordance with the~~
2 ~~provisions of this subsection shall be provided with pre-test~~
3 ~~and post-test counseling. Notwithstanding any provision of~~
4 ~~this subsection to the contrary, the Department shall not be~~
5 ~~required to conduct the testing and counseling required by this~~
6 ~~subsection unless sufficient funds to cover all costs of such~~
7 ~~testing and counseling are appropriated for that purpose by the~~
8 ~~General Assembly.~~

9 (j) Any person convicted of a sex offense as defined in the
10 Sex Offender Management Board Act shall be required to receive
11 a sex offender evaluation prior to release into the community
12 from the Department of Corrections. The sex offender evaluation
13 shall be conducted in conformance with the standards and
14 guidelines developed under the Sex Offender Management Board
15 Act and by an evaluator approved by the Board.

16 (k) Any minor committed to the Department of Juvenile
17 Justice for a sex offense as defined by the Sex Offender
18 Management Board Act shall be required to undergo sex offender
19 treatment by a treatment provider approved by the Board and
20 conducted in conformance with the Sex Offender Management Board
21 Act.

22 (l) Prior to the release of any inmate committed to a
23 facility of the Department or the Department of Juvenile
24 Justice, the Department must provide the inmate with
25 appropriate information verbally, in writing, by video, or
26 other electronic means, concerning HIV and AIDS. The Department

1 shall develop the informational materials in consultation with
2 the Department of Public Health. At the same time, the
3 Department must also offer the committed person the option of
4 testing for infection with human immunodeficiency virus (HIV),
5 as well as counseling in connection with such testing, with no
6 copayment for the test. Pre-test information shall be provided
7 to the committed person and informed consent obtained as
8 required in subsection (d) of Section 3 and Section 5 of the
9 AIDS Confidentiality Act. The Department may conduct opt-out
10 HIV testing as defined in Section 4 of the AIDS Confidentiality
11 Act. If the Department conducts opt-out HIV testing, the
12 Department shall place signs in English, Spanish and other
13 languages as needed in multiple, highly visible locations in
14 the area where HIV testing is conducted informing inmates that
15 they will be tested for HIV unless they refuse, and refusal or
16 acceptance of testing shall be documented in the inmate's
17 medical record. The Department shall follow procedures
18 established by the Department of Public Health to conduct HIV
19 testing and testing to confirm positive HIV test results. All
20 testing must be conducted by medical personnel, but pre-test
21 and other information may be provided by committed persons who
22 have received appropriate training. The Department, in
23 conjunction with the Department of Public Health, shall develop
24 a plan that complies with the AIDS Confidentiality Act to
25 deliver confidentially all positive or negative HIV test
26 results to inmates or former inmates. Nothing in this Section

1 shall require the Department to offer HIV testing to an inmate
2 who is known to be infected with HIV, or who has been tested
3 for HIV within the previous 180 days and whose documented HIV
4 test result is available to the Department electronically. At
5 ~~the same time, the Department shall require each such inmate to~~
6 ~~sign a form stating that the inmate has been informed of his or~~
7 ~~her rights with respect to the testing required to be offered~~
8 ~~under this subsection (1) and providing the inmate with an~~
9 ~~opportunity to indicate either that he or she wants to be~~
10 ~~tested or that he or she does not want to be tested. The~~
11 ~~Department, in consultation with the Department of Public~~
12 ~~Health, shall prescribe the contents of the form. The testing~~
13 ~~provided under this subsection (1) shall consist of an~~
14 ~~enzyme linked immunosorbent assay (ELISA) test or any other~~
15 ~~test approved by the Department of Public Health. If the test~~
16 ~~result is positive, the Western Blot Assay or more reliable~~
17 ~~confirmatory test shall be administered.~~

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

22 ~~Implementation of this subsection (1) is subject to~~
23 ~~appropriation.~~

24 (m) The chief administrative officer of each institution or
25 facility of the Department shall make a room in the institution
26 or facility available for addiction recovery services to be

1 provided to committed persons on a voluntary basis. The
2 services shall be provided for one hour once a week at a time
3 specified by the chief administrative officer of the
4 institution or facility if the following conditions are met:

5 (1) the addiction recovery service contacts the chief
6 administrative officer to arrange the meeting;

7 (2) the committed person may attend the meeting for
8 addiction recovery services only if the committed person
9 uses pre-existing free time already available to the
10 committed person;

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

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

15 (5) if the addiction recovery service does not arrange
16 for scheduling a meeting for that week, no addiction
17 recovery services shall be provided to the committed person
18 in the institution or facility for that week;

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

22 (7) a volunteer seeking to provide addiction recovery
23 services under this subsection (m) must submit an
24 application to the Department of Corrections under
25 existing Department rules and the Department must review
26 the application within 60 days after submission of the

1 application to the Department; and

2 (8) each institution and facility of the Department
3 shall manage the addiction recovery services program
4 according to its own processes and procedures.

5 For the purposes of this subsection (m), "addiction
6 recovery services" means recovery services for alcoholics and
7 addicts provided by volunteers of recovery support services
8 recognized by the Department of Human Services.

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

10 (730 ILCS 5/3-8-2) (from Ch. 38, par. 1003-8-2)

11 Sec. 3-8-2. Social Evaluation; physical examination;
12 HIV/AIDS.

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

22 (b) A record of the social evaluation shall be entered in
23 the committed person's master record file and shall be
24 forwarded to the institution or facility to which the person is
25 assigned.

1 (c) Upon admission to a correctional institution each
2 committed person shall be given a physical examination. If he
3 is suspected of having a communicable disease that in the
4 judgment of the Department medical personnel requires medical
5 isolation, the committed person shall remain in medical
6 isolation until it is no longer deemed medically necessary.

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

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

1 ~~reliable confirmatory test shall be administered.~~
2 ~~Implementation of this subsection (d) is subject to~~
3 ~~appropriation.~~

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

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

6 Sec. 3-10-2. Examination of Persons Committed to the
7 Department of Juvenile Justice.

8 (a) A person committed to the Department of Juvenile
9 Justice shall be examined in regard to his medical,
10 psychological, social, educational and vocational condition
11 and history, including the use of alcohol and other drugs, the
12 circumstances of his offense and any other information as the
13 Department of Juvenile Justice may determine.

14 (a-5) Upon admission of a person committed to the
15 Department of Juvenile Justice, the Department of Juvenile
16 Justice must provide the person with appropriate information
17 ~~written information and counseling~~ concerning HIV and AIDS in
18 writing, verbally, or by video or other electronic means. The
19 Department of Juvenile Justice shall develop the informational
20 ~~written~~ materials in consultation with the Department of Public
21 Health. At the same time, the Department of Juvenile Justice
22 also must offer the person the option of being tested, at no
23 charge to the person, for infection with human immunodeficiency
24 virus (HIV). Pre-test information shall be provided to the
25 committed person and informed consent obtained as required in

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

1 ~~Department of Juvenile Justice to sign a form stating that the~~
2 ~~person has been informed of his or her rights with respect to~~
3 ~~the testing required to be offered under this subsection (a-5)~~
4 ~~and providing the person with an opportunity to indicate either~~
5 ~~that he or she wants to be tested or that he or she does not~~
6 ~~want to be tested. The Department of Juvenile Justice, in~~
7 ~~consultation with the Department of Public Health, shall~~
8 ~~prescribe the contents of the form. The testing provided under~~
9 ~~this subsection (a-5) shall consist of an enzyme linked~~
10 ~~immunosorbent assay (ELISA) test or any other test approved by~~
11 ~~the Department of Public Health. If the test result is~~
12 ~~positive, the Western Blot Assay or more reliable confirmatory~~
13 ~~test shall be administered.~~

14 Also upon admission of a person committed to the Department
15 of Juvenile Justice, the Department of Juvenile Justice must
16 inform the person of the Department's obligation to provide the
17 person with medical care.

18 ~~Implementation of this subsection (a-5) is subject to~~
19 ~~appropriation.~~

20 (b) Based on its examination, the Department of Juvenile
21 Justice may exercise the following powers in developing a
22 treatment program of any person committed to the Department of
23 Juvenile Justice:

24 (1) Require participation by him in vocational,
25 physical, educational and corrective training and
26 activities to return him to the community.

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

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

7 (4) Enter into agreements with the Secretary of Human
8 Services and the Director of Children and Family Services,
9 with courts having probation officers, and with private
10 agencies or institutions for separate care or special
11 treatment of persons subject to the control of the
12 Department of Juvenile Justice.

13 (c) The Department of Juvenile Justice shall make periodic
14 reexamination of all persons under the control of the
15 Department of Juvenile Justice to determine whether existing
16 orders in individual cases should be modified or continued.
17 This examination shall be made with respect to every person at
18 least once annually.

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

22 (e) The Department of Juvenile Justice shall by certified
23 mail, return receipt requested, notify the parent, guardian or
24 nearest relative of any person committed to the Department of
25 Juvenile Justice of his physical location and any change
26 thereof.

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

2 Section 10. The County Jail Act is amended by changing
3 Section 17.10 as follows:

4 (730 ILCS 125/17.10)

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

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

19 (b) In Cook County, during the medical admissions exam, an
20 employee of the Cook County Health & Hospitals System ~~Bureau of~~
21 ~~Health Services~~ must provide the prisoner with appropriate
22 ~~written~~ information in writing, verbally or by video or other
23 electronic means concerning human immunodeficiency virus (HIV)
24 and acquired immunodeficiency syndrome (AIDS) and must also

1 provide the prisoner with option of testing for infection with
2 HIV or any other identified causative agent of AIDS, as well as
3 counseling in connection with such testing. The Cook County
4 Health & Hospitals System may provide the inmate with opt-out
5 human immunodeficiency virus (HIV) testing, as defined in
6 Section 4 of the AIDS Confidentiality Act, unless the inmate
7 refuses. If opt-out HIV testing is conducted, the Cook County
8 Health & Hospitals System shall place signs in English,
9 Spanish, and other languages as needed in multiple, highly
10 visible locations in the area where HIV testing is conducted
11 informing inmates that they will be tested for HIV unless they
12 refuse, and refusal or acceptance of testing shall be
13 documented in the inmate's medical record. Pre-test
14 information shall be provided to the inmate and informed
15 consent obtained from the inmate as required in subsection (d)
16 of Section 3 and Section 5 of the AIDS Confidentiality Act. The
17 Cook County Health & Hospitals System shall follow procedures
18 established by the Department of Public Health to conduct HIV
19 testing and testing to confirm positive HIV test results. All
20 aspects of HIV testing shall comply with the requirements of
21 the AIDS Confidentiality Act, including delivery of test
22 results, as determined by the Cook County Health & Hospitals
23 System in consultation with the Illinois Department of Public
24 Health. Nothing in this Section shall require the Cook County
25 Health & Hospitals System to offer HIV testing to inmates who
26 are known to be infected with HIV. The Department of Public

1 Health and community-based organizations certified to provide
2 HIV/AIDS testing may ~~must~~ provide these informational
3 materials to the Bureau at no cost to the county. ~~The testing~~
4 ~~provided under this subsection (b) shall be conducted by the~~
5 ~~Cook County Bureau of Health Services and shall consist of an~~
6 ~~enzyme linked immunosorbent assay (ELISA) test or any other~~
7 ~~test approved by the Department of Public Health. If the test~~
8 ~~result is positive, the Western Blot Assay or more reliable~~
9 ~~confirmatory test shall be administered.~~

10 (c) In each county, the warden of the jail must make
11 appropriate written information concerning HIV/AIDS available
12 to every visitor to the jail. This information must include
13 information concerning persons or entities to contact for local
14 counseling and testing. The Department of Public Health and
15 community-based organizations certified to provide HIV/AIDS
16 testing must provide these informational materials to the
17 warden at no cost to the office of the county sheriff.

18 (d) Implementation of this Section is subject to
19 appropriation.

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

21 Section 99. Effective date. This Act takes effect August 1,
22 2011."