



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5766

by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-2-2

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

Amends the Unified Code of Corrections. Provides that the Department of Corrections may enter into an intergovernmental agreement with DuPage County to establish a pilot program within DuPage County, which shall include the establishment of a secure facility for the purpose of delivering intensive and individualized evidence-based substance abuse treatment to persons sentenced to incarceration. Provides that contingent upon the establishment of a secure treatment facility in DuPage County under an intergovernmental agreement between DuPage County and the Department, a defendant sentenced to a term of incarceration for any Class 2, Class 3, or Class 4 felony violation of the Illinois Controlled Substances Act, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, the Theft and Related Offenses Article or the Deception and Fraud Article of the Criminal Code of 2012, burglary, or possession of burglary tools, may serve his or her sentence at the secure treatment facility if: (1) the defendant, the State's Attorney, the Department, and DuPage County all consent to the defendant serving his or her sentence at the secure treatment facility; and (2) a risks and needs assessment of the defendant conducted by the Department indicates that the defendant has a severe addiction which makes it likely that he or she will reoffend if the addiction is not effectively treated. Provides that the pilot program shall terminate on January 1, 2019. Effective immediately.

LRB098 18670 RLC 53813 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-2-2 as follows:

6 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

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

8 (1) In addition to the powers, duties and responsibilities
9 which are otherwise provided by law, the Department shall have
10 the following powers:

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

17 (b) To develop and maintain reception and evaluation
18 units for purposes of analyzing the custody and
19 rehabilitation needs of persons committed to it and to
20 assign such persons to institutions and programs under its
21 control or transfer them to other appropriate agencies. In
22 consultation with the Department of Alcoholism and
23 Substance Abuse (now the Department of Human Services), the

1 Department of Corrections shall develop a master plan for
2 the screening and evaluation of persons committed to its
3 custody who have alcohol or drug abuse problems, and for
4 making appropriate treatment available to such persons;
5 the Department shall report to the General Assembly on such
6 plan not later than April 1, 1987. The maintenance and
7 implementation of such plan shall be contingent upon the
8 availability of funds.

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

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

1 (c) To maintain and administer all State correctional
2 institutions and facilities under its control and to
3 establish new ones as needed. Pursuant to its power to
4 establish new institutions and facilities, the Department
5 may, with the written approval of the Governor, authorize
6 the Department of Central Management Services to enter into
7 an agreement of the type described in subsection (d) of
8 Section 405-300 of the Department of Central Management
9 Services Law (20 ILCS 405/405-300). The Department shall
10 designate those institutions which shall constitute the
11 State Penitentiary System.

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

26 Upon receipt of the bids, the Department may certify

1 one or more of the bids and shall submit any such bids to
2 the General Assembly for approval. Upon approval of a bid
3 by a constitutional majority of both houses of the General
4 Assembly, pursuant to joint resolution, the Department of
5 Central Management Services may enter into an agreement
6 with the county or municipality pursuant to such bid.

7 (c-5) To build and maintain regional juvenile
8 detention centers and to charge a per diem to the counties
9 as established by the Department to defray the costs of
10 housing each minor in a center. In this subsection (c-5),
11 "juvenile detention center" means a facility to house
12 minors during pendency of trial who have been transferred
13 from proceedings under the Juvenile Court Act of 1987 to
14 prosecutions under the criminal laws of this State in
15 accordance with Section 5-805 of the Juvenile Court Act of
16 1987, whether the transfer was by operation of law or
17 permissive under that Section. The Department shall
18 designate the counties to be served by each regional
19 juvenile detention center.

20 (d) To develop and maintain programs of control,
21 rehabilitation and employment of committed persons within
22 its institutions.

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

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

1 (f) To establish in cooperation with the Department of
2 Transportation to supply a sufficient number of prisoners
3 for use by the Department of Transportation to clean up the
4 trash and garbage along State, county, township, or
5 municipal highways as designated by the Department of
6 Transportation. The Department of Corrections, at the
7 request of the Department of Transportation, shall furnish
8 such prisoners at least annually for a period to be agreed
9 upon between the Director of Corrections and the Director
10 of Transportation. The prisoners used on this program shall
11 be selected by the Director of Corrections on whatever
12 basis he deems proper in consideration of their term,
13 behavior and earned eligibility to participate in such
14 program - where they will be outside of the prison facility
15 but still in the custody of the Department of Corrections.
16 Prisoners convicted of first degree murder, or a Class X
17 felony, or armed violence, or aggravated kidnapping, or
18 criminal sexual assault, aggravated criminal sexual abuse
19 or a subsequent conviction for criminal sexual abuse, or
20 forcible detention, or arson, or a prisoner adjudged a
21 Habitual Criminal shall not be eligible for selection to
22 participate in such program. The prisoners shall remain as
23 prisoners in the custody of the Department of Corrections
24 and such Department shall furnish whatever security is
25 necessary. The Department of Transportation shall furnish
26 trucks and equipment for the highway cleanup program and

1 personnel to supervise and direct the program. Neither the
2 Department of Corrections nor the Department of
3 Transportation shall replace any regular employee with a
4 prisoner.

5 (g) To maintain records of persons committed to it and
6 to establish programs of research, statistics and
7 planning.

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

22 If any person fails to obey a subpoena issued under
23 this subsection, the Director may apply to any circuit
24 court to secure compliance with the subpoena. The failure
25 to comply with the order of the court issued in response
26 thereto shall be punishable as contempt of court.

1 (i) To appoint and remove the chief administrative
2 officers, and administer programs of training and
3 development of personnel of the Department. Personnel
4 assigned by the Department to be responsible for the
5 custody and control of committed persons or to investigate
6 the alleged misconduct of committed persons or employees or
7 alleged violations of a parolee's or releasee's conditions
8 of parole shall be conservators of the peace for those
9 purposes, and shall have the full power of peace officers
10 outside of the facilities of the Department in the
11 protection, arrest, retaking and reconfining of committed
12 persons or where the exercise of such power is necessary to
13 the investigation of such misconduct or violations. This
14 subsection shall not apply to persons committed to the
15 Department of Juvenile Justice under the Juvenile Court Act
16 of 1987 on aftercare release.

17 (j) To cooperate with other departments and agencies
18 and with local communities for the development of standards
19 and programs for better correctional services in this
20 State.

21 (k) To administer all moneys and properties of the
22 Department.

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

25 (1-5) (Blank).

26 (m) To make all rules and regulations and exercise all

1 powers and duties vested by law in the Department.

2 (n) To establish rules and regulations for
3 administering a system of sentence credits, established in
4 accordance with Section 3-6-3, subject to review by the
5 Prisoner Review Board.

6 (o) To administer the distribution of funds from the
7 State Treasury to reimburse counties where State penal
8 institutions are located for the payment of assistant
9 state's attorneys' salaries under Section 4-2001 of the
10 Counties Code.

11 (p) To exchange information with the Department of
12 Human Services and the Department of Healthcare and Family
13 Services for the purpose of verifying living arrangements
14 and for other purposes directly connected with the
15 administration of this Code and the Illinois Public Aid
16 Code.

17 (q) To establish a diversion program.

18 The program shall provide a structured environment for
19 selected technical parole or mandatory supervised release
20 violators and committed persons who have violated the rules
21 governing their conduct while in work release. This program
22 shall not apply to those persons who have committed a new
23 offense while serving on parole or mandatory supervised
24 release or while committed to work release.

25 Elements of the program shall include, but shall not be
26 limited to, the following:

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

4 (2) Participants shall be required to maintain
5 employment.

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

9 (4) Each participant shall:

10 (A) provide restitution to victims in
11 accordance with any court order;

12 (B) provide financial support to his
13 dependents; and

14 (C) make appropriate payments toward any other
15 court-ordered obligations.

16 (5) Each participant shall complete community
17 service in addition to employment.

18 (6) Participants shall take part in such
19 counseling, educational and other programs as the
20 Department may deem appropriate.

21 (7) Participants shall submit to drug and alcohol
22 screening.

23 (8) The Department shall promulgate rules
24 governing the administration of the program.

25 (r) To enter into intergovernmental cooperation
26 agreements under which persons in the custody of the

1 Department may participate in a county impact
2 incarceration program established under Section 3-6038 or
3 3-15003.5 of the Counties Code.

4 (r-5) (Blank).

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

16 (i) are members of a criminal streetgang;

17 (ii) with respect to other individuals within the
18 streetgang, occupy a position of organizer,
19 supervisor, or other position of management or
20 leadership; and

21 (iii) are actively and personally engaged in
22 directing, ordering, authorizing, or requesting
23 commission of criminal acts by others, which are
24 punishable as a felony, in furtherance of streetgang
25 related activity both within and outside of the
26 Department of Corrections.

1 "Streetgang", "gang", and "streetgang related" have the
2 meanings ascribed to them in Section 10 of the Illinois
3 Streetgang Terrorism Omnibus Prevention Act.

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

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

20 As used in this subdivision (1)(t), "unprivileged
21 conversation" or "unprivileged communication" means a
22 conversation or communication that is not protected by any
23 privilege recognized by law or by decision, rule, or order
24 of the Illinois Supreme Court.

25 (u) To establish a Women's and Children's Pre-release
26 Community Supervision Program for the purpose of providing

1 housing and services to eligible female inmates, as
2 determined by the Department, and their newborn and young
3 children.

4 (u-5) To issue an order, whenever a person committed to
5 the Department absconds or absents himself or herself,
6 without authority to do so, from any facility or program to
7 which he or she is assigned. The order shall be certified
8 by the Director, the Supervisor of the Apprehension Unit,
9 or any person duly designated by the Director, with the
10 seal of the Department affixed. The order shall be directed
11 to all sheriffs, coroners, and police officers, or to any
12 particular person named in the order. Any order issued
13 pursuant to this subdivision (1) (u-5) shall be sufficient
14 warrant for the officer or person named in the order to
15 arrest and deliver the committed person to the proper
16 correctional officials and shall be executed the same as
17 criminal process.

18 (u-6) To enter into an intergovernmental agreement
19 with DuPage County to establish a pilot program within
20 DuPage County, which shall include the establishment of a
21 secure facility for the purpose of delivering intensive and
22 individualized evidence-based substance abuse treatment to
23 persons sentenced to incarceration. Contingent upon the
24 establishment of a secure treatment facility in DuPage
25 County under an intergovernmental agreement between DuPage
26 County and the Department, a defendant sentenced to a term

1 of incarceration for any Class 2, Class 3, or Class 4
2 felony violation of the Illinois Controlled Substances
3 Act, the Cannabis Control Act, the Methamphetamine Control
4 and Community Protection Act, Articles 16 or 17 of the
5 Criminal Code of 2012, burglary, or possession of burglary
6 tools, may serve his or her sentence at the secure
7 treatment facility if: (1) the defendant, the State's
8 Attorney, the Department, and DuPage County all consent to
9 the defendant serving his or her sentence at the secure
10 treatment facility; and (2) a risks and needs assessment of
11 the defendant conducted by the Department indicates that
12 the defendant has a severe addiction which makes it likely
13 that he or she will reoffend if the addiction is not
14 effectively treated. The pilot program shall terminate on
15 January 1, 2019.

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

18 (2) The Department of Corrections shall by January 1, 1998,
19 consider building and operating a correctional facility within
20 100 miles of a county of over 2,000,000 inhabitants, especially
21 a facility designed to house juvenile participants in the
22 impact incarceration program.

23 (3) When the Department lets bids for contracts for medical
24 services to be provided to persons committed to Department
25 facilities by a health maintenance organization, medical
26 service corporation, or other health care provider, the bid may

1 only be let to a health care provider that has obtained an
2 irrevocable letter of credit or performance bond issued by a
3 company whose bonds have an investment grade or higher rating
4 by a bond rating organization.

5 (4) When the Department lets bids for contracts for food or
6 commissary services to be provided to Department facilities,
7 the bid may only be let to a food or commissary services
8 provider that has obtained an irrevocable letter of credit or
9 performance bond issued by a company whose bonds have an
10 investment grade or higher rating by a bond rating
11 organization.

12 (5) On and after the date 6 months after August 16, 2013
13 (the effective date of Public Act 98-488) ~~this amendatory Act~~
14 ~~of the 98th General Assembly~~, as provided in the Executive
15 Order 1 (2012) Implementation Act, all of the powers, duties,
16 rights, and responsibilities related to State healthcare
17 purchasing under this Code that were transferred from the
18 Department of Corrections to the Department of Healthcare and
19 Family Services by Executive Order 3 (2005) are transferred
20 back to the Department of Corrections; however, powers, duties,
21 rights, and responsibilities related to State healthcare
22 purchasing under this Code that were exercised by the
23 Department of Corrections before the effective date of
24 Executive Order 3 (2005) but that pertain to individuals
25 resident in facilities operated by the Department of Juvenile
26 Justice are transferred to the Department of Juvenile Justice.

1 (Source: P.A. 97-697, eff. 6-22-12; 97-800, eff. 7-13-12;
2 97-802, eff. 7-13-12; 98-463, eff. 8-16-13; 98-488, eff.
3 8-16-13; 98-558, eff. 1-1-14; revised 9-24-13.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.