

1 AN ACT in relation to 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  
5 by 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  
9 responsibilities which are otherwise provided by law, the  
10 Department shall have the following powers:

11 (a) To accept persons committed to it by the courts  
12 of this State for care, custody, treatment and  
13 rehabilitation.

14 (b) To develop and maintain reception and  
15 evaluation units for purposes of analyzing the custody  
16 and rehabilitation needs of persons committed to it and  
17 to assign such persons to institutions and programs under  
18 its control or transfer them to other appropriate  
19 agencies. In consultation with the Department of  
20 Alcoholism and Substance Abuse (now the Department of  
21 Human Services), the Department of Corrections shall  
22 develop a master plan for the screening and evaluation of  
23 persons committed to its custody who have alcohol or drug  
24 abuse problems, and for making appropriate treatment  
25 available to such persons; the Department shall report to  
26 the General Assembly on such plan not later than April 1,  
27 1987. The maintenance and implementation of such plan  
28 shall be contingent upon the availability of funds.

29 (b-1) To create and implement, on January 1, 2002,  
30 a pilot program to establish the effectiveness of  
31 pupillometer technology (the measurement of the pupil's

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

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

17 (c) To maintain and administer all State  
18 correctional institutions and facilities under its  
19 control and to establish new ones as needed. Pursuant to  
20 its power to establish new institutions and facilities,  
21 the Department may, with the written approval of the  
22 Governor, authorize the Department of Central Management  
23 Services to enter into an agreement of the type described  
24 in subsection (d) of Section 405-300 of the Department of  
25 Central Management Services Law (20 ILCS 405/405-300).  
26 The Department shall designate those institutions which  
27 shall constitute the State Penitentiary System.

28 Pursuant to its power to establish new institutions  
29 and facilities, the Department may authorize the  
30 Department of Central Management Services to accept bids  
31 from counties and municipalities for the construction,  
32 remodeling or conversion of a structure to be leased to  
33 the Department of Corrections for the purposes of its  
34 serving as a correctional institution or facility. Such

1 construction, remodeling or conversion may be financed  
2 with revenue bonds issued pursuant to the Industrial  
3 Building Revenue Bond Act by the municipality or county.  
4 The lease specified in a bid shall be for a term of not  
5 less than the time needed to retire any revenue bonds  
6 used to finance the project, but not to exceed 40 years.  
7 The lease may grant to the State the option to purchase  
8 the structure outright.

9       Upon receipt of the bids, the Department may certify  
10 one or more of the bids and shall submit any such bids to  
11 the General Assembly for approval. Upon approval of a bid  
12 by a constitutional majority of both houses of the  
13 General Assembly, pursuant to joint resolution, the  
14 Department of Central Management Services may enter into  
15 an agreement with the county or municipality pursuant to  
16 such bid.

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

30       (d) To develop and maintain programs of control,  
31 rehabilitation and employment of committed persons within  
32 its institutions.

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

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

32           (g) To maintain records of persons committed to it  
33 and to establish programs of research, statistics and  
34 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  
7 and the production of writings and papers, and may  
8 examine under oath any witnesses who may appear before  
9 it; to also investigate alleged violations of a parolee's  
10 or releasee's conditions of parole or release; and for  
11 this purpose it may issue subpoenas and compel the  
12 attendance of witnesses and the production of documents  
13 only if there is reason to believe that such procedures  
14 would provide evidence that such violations have  
15 occurred.

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

22           (i) To appoint and remove the chief administrative  
23 officers, and administer programs of training and  
24 development of personnel of the Department. Personnel  
25 assigned by the Department to be responsible for the  
26 custody and control of committed persons or to  
27 investigate the alleged misconduct of committed persons  
28 or employees or alleged violations of a parolee's or  
29 releasee's conditions of parole shall be conservators of  
30 the peace for those purposes, and shall have the full  
31 power of peace officers outside of the facilities of the  
32 Department in the protection, arrest, retaking and  
33 reconfining of committed persons or where the exercise of  
34 such power is necessary to the investigation of such

1 misconduct or violations.

2 (j) To cooperate with other departments and  
3 agencies and with local communities for the development  
4 of standards and programs for better correctional  
5 services in this State.

6 (k) To administer all moneys and properties of the  
7 Department.

8 (l) To report annually to the Governor on the  
9 committed persons, institutions and programs of the  
10 Department.

11 (l-5) In a confidential annual report to the  
12 Governor, the Department shall identify all inmate gangs  
13 by specifying each current gang's name, population and  
14 allied gangs. The Department shall further specify the  
15 number of top leaders identified by the Department for  
16 each gang during the past year, and the measures taken by  
17 the Department to segregate each leader from his or her  
18 gang and allied gangs. The Department shall further  
19 report the current status of leaders identified and  
20 segregated in previous years. All leaders described in  
21 the report shall be identified by inmate number or other  
22 designation to enable tracking, auditing, and  
23 verification without revealing the names of the leaders.  
24 Because this report contains law enforcement intelligence  
25 information collected by the Department, the report is  
26 confidential and not subject to public disclosure.

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

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

33 (o) To administer the distribution of funds from  
34 the State Treasury to reimburse counties where State

1 penal institutions are located for the payment of  
2 assistant state's attorneys' salaries under Section  
3 4-2001 of the Counties Code.

4 (p) To exchange information with the Department of  
5 Human Services and the Illinois Department of Public Aid  
6 for the purpose of verifying living arrangements and for  
7 other purposes directly connected with the administration  
8 of this Code and the Illinois Public Aid Code.

9 (q) To establish a diversion program.

10 The program shall provide a structured environment  
11 for selected technical parole or mandatory supervised  
12 release violators and committed persons who have violated  
13 the rules governing their conduct while in work release.  
14 This program shall not apply to those persons who have  
15 committed a new offense while serving on parole or  
16 mandatory supervised release or while committed to work  
17 release.

18 Elements of the program shall include, but shall not  
19 be limited to, the following:

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

23 (2) Participants shall be required to maintain  
24 employment.

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

28 (4) Each participant shall:

29 (A) provide restitution to victims in  
30 accordance with any court order;

31 (B) provide financial support to his  
32 dependents; and

33 (C) make appropriate payments toward any  
34 other court-ordered obligations.

1           (5) Each participant shall complete community  
2 service in addition to employment.

3           (6) Participants shall take part in such  
4 counseling, educational and other programs as the  
5 Department may deem appropriate.

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

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

10          (r) To enter into intergovernmental cooperation  
11 agreements under which persons in the custody of the  
12 Department may participate in a county impact  
13 incarceration program established under Section 3-6038 or  
14 3-15003.5 of the Counties Code.

15          (r-5) To enter into intergovernmental cooperation  
16 agreements under which minors adjudicated delinquent and  
17 committed to the Department of Corrections, Juvenile  
18 Division, may participate in a county juvenile impact  
19 incarceration program established under Section 3-6039 of  
20 the Counties Code.

21          (r-10) To systematically and routinely identify  
22 with respect to each streetgang active within the  
23 correctional system: (1) each active gang; (2) every  
24 existing inter-gang affiliation or alliance; and (3) the  
25 current leaders in each gang. The Department shall  
26 promptly segregate leaders from inmates who belong to  
27 their gangs and allied gangs. "Segregate" means no  
28 physical contact and, to the extent possible under the  
29 conditions and space available at the correctional  
30 facility, prohibition of visual and sound communication.  
31 For the purposes of this paragraph (r-10), "leaders"  
32 means persons who:

33           (i) are members of a criminal streetgang;

34           (ii) with respect to other individuals within



1 the streetgang, occupy a position of organizer,  
2 supervisor, or other position of management or  
3 leadership; and

4 (iii) are actively and personally engaged in  
5 directing, ordering, authorizing, or requesting  
6 commission of criminal acts by others, which are  
7 punishable as a felony, in furtherance of streetgang  
8 related activity both within and outside of the  
9 Department of Corrections.

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

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

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

29 As used in this subdivision (1)(t), "unprivileged  
30 conversation" or "unprivileged communication" means a  
31 conversation or communication that is not protected by  
32 any privilege recognized by law or by decision, rule, or  
33 order of the Illinois Supreme Court.

34 (u) To establish a Women's and Children's

1 Pre-release Community Supervision Program for the purpose  
2 of providing housing and services to eligible female  
3 inmates, as determined by the Department, and their  
4 newborn and young children.

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

7 (2) The Department of Corrections shall by January 1,  
8 1998, consider building and operating a correctional facility  
9 within 100 miles of a county of over 2,000,000 inhabitants,  
10 especially a facility designed to house juvenile participants  
11 in the impact incarceration program.

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

20 (Source: P.A. 91-239, eff. 1-1-00; 91-357, eff. 7-29-99;  
21 92-444, eff. 1-1-02.)