



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB0310

by Rep. Thomas M. Bennett

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-4  
730 ILCS 5/3-10-8

from Ch. 38, par. 1003-6-4  
from Ch. 38, par. 1003-10-8

Amends the Unified Code of Corrections. Provides that if one or more committed persons in a Department of Corrections institution or facility injures or attempts to injure in a violent manner any employee, officer, guard, other peace officer or any other committed person or damages or attempts to damage any building or workshop, or any appurtenances thereof, or attempts to escape, or disobeys or resists any lawful command, the employees, officers, guards and other peace officers shall use all suitable means to defend other persons as well as themselves, to enforce the observance of discipline, to achieve a permitted purpose, to secure the persons of the offenders, and prevent such attempted violence or escape. Provides that use of force shall be terminated as soon as force is no longer necessary. Provides that corporal punishment is prohibited. Provides that use of chemical agents may be justified under the following circumstances: (1) when use of force is otherwise justified; (2) when lesser means are unavailable or inadequate; (3) when a committed person refuses to follow direct orders and verbalizes intent to resist the use of justified force to compel compliance with a lawful command; or (4) when a reasonable person would believe that a committed person is likely to resist the use of justified force to compel compliance with a lawful command. Provides that in a Department of Juvenile Justice facility, force shall be employed only to the degree reasonably necessary to defend oneself, another person, or to achieve a permitted purpose. Provides that use of force shall be terminated as soon as force is no longer necessary. Effective immediately.

LRB100 05370 RLC 15381 b

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 3-6-4 and 3-10-8 as follows:

6 (730 ILCS 5/3-6-4) (from Ch. 38, par. 1003-6-4)

7 Sec. 3-6-4. Enforcement of Discipline - Escape.

8 (a) A committed person who escapes or attempts to escape  
9 from an institution or facility of the Department of  
10 Corrections, or escapes or attempts to escape while in the  
11 custody of an employee of the Department of Corrections, or  
12 holds or participates in the holding of any person as a hostage  
13 by force, threat or violence, or while participating in any  
14 disturbance, demonstration or riot, causes, directs or  
15 participates in the destruction of any property is guilty of a  
16 Class 2 felony. A committed person who fails to return from  
17 furlough or from work and day release is guilty of a Class 3  
18 felony.

19 (b) If one or more committed persons injures or attempts to  
20 injure in a violent manner any employee, officer, guard, other  
21 peace officer or any other committed person or damages or  
22 attempts to damage any building or workshop, or any  
23 appurtenances thereof, or attempts to escape, or disobeys or

1 resists any lawful command, the employees, officers, guards and  
2 other peace officers shall use all suitable means to defend  
3 themselves or other persons, to enforce the observance of  
4 discipline, to achieve a permitted purpose, to secure the  
5 persons of the offenders, and prevent such attempted violence  
6 or escape; and said employees, officers, guards, or other peace  
7 officers, or any of them, shall, in the attempt to prevent the  
8 escape of any such person, or in attempting to retake any such  
9 person who has escaped, or in attempting to prevent or suppress  
10 violence by a committed person against another person, a riot,  
11 revolt, mutiny or insurrection, be justified in the use of  
12 force, including force likely to cause death or great bodily  
13 harm under Section 7-8 of the Criminal Code of 2012, which he  
14 or she reasonably believed necessary. Use of force shall be  
15 terminated as soon as force is no longer necessary. Corporal  
16 punishment is prohibited. Use of chemical agents may be  
17 justified under the following circumstances:

18 (1) when use of force is otherwise justified;

19 (2) when lesser means are unavailable or inadequate;

20 (3) when a committed person refuses to follow direct  
21 orders and verbalizes an intent to resist the use of  
22 justified force to compel compliance with a lawful command;  
23 or

24 (4) when a reasonable person would believe that a  
25 committed person is likely to resist the use of justified  
26 force to compel compliance with a lawful command.

1           As used in this Section, "committed person" includes a  
2 person held in detention in a secure facility or committed as a  
3 sexually violent person and held in a secure facility under the  
4 Sexually Violent Persons Commitment Act; and "peace officer"  
5 means any officer or member of any duly organized State, county  
6 or municipal police unit or police force.

7           (c) The Department shall establish procedures to provide  
8 immediate notification of the escape of any person, as defined  
9 in subsection (a) of this Section, to the persons specified in  
10 subsection (c) of Section 3-14-1 of this Code.

11         (Source: P.A. 97-1083, eff. 8-24-12; 97-1150, eff. 1-25-13.)

12           (730 ILCS 5/3-10-8) (from Ch. 38, par. 1003-10-8)

13           Sec. 3-10-8. Discipline.)

14           (a) (1) Corporal punishment and disciplinary restrictions  
15 on diet, medical or sanitary facilities, clothing, bedding or  
16 mail are prohibited, as are reductions in the frequency of use  
17 of toilets, washbowls and showers.

18           (2) Disciplinary restrictions on visitation, work,  
19 education or program assignments, the use of toilets, washbowls  
20 and showers shall be related as closely as practicable to abuse  
21 of such privileges or facilities. This paragraph shall not  
22 apply to segregation or isolation of persons for purposes of  
23 institutional control.

24           (3) No person committed to the Department of Juvenile  
25 Justice may be isolated for disciplinary reasons for more than

1 7 consecutive days nor more than 15 days out of any 30 day  
2 period except in cases of violence or attempted violence  
3 committed against another person or property when an additional  
4 period of isolation for disciplinary reasons is approved by the  
5 chief administrative officer. A person who has been isolated  
6 for 24 hours or more shall be interviewed daily by his staff  
7 counselor or other staff member.

8 (4) Force shall be employed only to the degree reasonably  
9 necessary to defend oneself, another person, or to achieve a  
10 permitted purpose. Use of force shall be terminated as soon as  
11 force is no longer necessary.

12 (b) The Department of Juvenile Justice shall establish  
13 rules and regulations governing disciplinary practices, the  
14 penalties for violation thereof, and the disciplinary  
15 procedure by which such penalties may be imposed. The rules of  
16 behavior shall be made known to each committed person, and the  
17 discipline shall be suited to the infraction and fairly  
18 applied.

19 (c) All disciplinary action imposed upon persons in  
20 institutions and facilities of the Department of Juvenile  
21 Justice shall be consistent with this Section and Department  
22 rules and regulations adopted hereunder.

23 (d) Disciplinary action imposed under this Section shall be  
24 reviewed by the grievance procedure under Section 3-8-8.

25 (e) A written report of any infraction for which discipline  
26 is imposed shall be filed with the chief administrative officer

1 within 72 hours of the occurrence of the infraction or the  
2 discovery of it and such report shall be placed in the file of  
3 the institution or facility.

4 (f) All institutions and facilities of the Department of  
5 Juvenile Justice shall establish, subject to the approval of  
6 the Director of Juvenile Justice, procedures for disciplinary  
7 cases except those that may involve the imposition of  
8 disciplinary isolation; delay in referral to the Parole and  
9 Pardon Board or a change in work, education or other program  
10 assignment of more than 7 days duration.

11 (g) In disciplinary cases which may involve the imposition  
12 of disciplinary isolation, delay in referral to the Parole and  
13 Pardon Board, or a change in work, education or other program  
14 assignment of more than 7 days duration, the Director shall  
15 establish disciplinary procedures consistent with the  
16 following principles:

17 (1) Any person or persons who initiate a disciplinary  
18 charge against a person shall not decide the charge. To the  
19 extent possible, a person representing the counseling  
20 staff of the institution or facility shall participate in  
21 deciding the disciplinary case.

22 (2) Any committed person charged with a violation of  
23 Department rules of behavior shall be given notice of the  
24 charge including a statement of the misconduct alleged and  
25 of the rules this conduct is alleged to violate.

26 (3) Any person charged with a violation of rules is

1 entitled to a hearing on that charge at which time he shall  
2 have an opportunity to appear before and address the person  
3 or persons deciding the charge.

4 (4) The person or persons deciding the charge may also  
5 summon to testify any witnesses or other persons with  
6 relevant knowledge of the incident. The person charged may  
7 be permitted to question any person so summoned.

8 (5) If the charge is sustained, the person charged is  
9 entitled to a written statement of the decision by the  
10 persons deciding the charge which shall include the basis  
11 for the decision and the disciplinary action, if any, to be  
12 imposed.

13 (6) A change in work, education, or other program  
14 assignment shall not be used for disciplinary purposes  
15 except as provided in paragraph (a) of the Section and then  
16 only after review and approval under Section 3-10-3.

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

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.