

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 3-1-2 and 3-2-2 as follows:

6 (730 ILCS 5/3-1-2) (from Ch. 38, par. 1003-1-2)  
7 Sec. 3-1-2. Definitions.

8 (a) "Chief Administrative Officer" means the person  
9 designated by the Director to exercise the powers and duties of  
10 the Department of Corrections in regard to committed persons  
11 within a correctional institution or facility, and includes the  
12 superintendent of any juvenile institution or facility.

13 (a-3) "Aftercare release" means the conditional and  
14 revocable release of a person committed to the Department of  
15 Juvenile Justice under the Juvenile Court Act of 1987, under  
16 the supervision of the Department of Juvenile Justice.

17 (a-5) "Sex offense" for the purposes of paragraph (16) of  
18 subsection (a) of Section 3-3-7, paragraph (10) of subsection  
19 (a) of Section 5-6-3, and paragraph (18) of subsection (c) of  
20 Section 5-6-3.1 only means:

21 (i) A violation of any of the following Sections of the  
22 Criminal Code of 1961 or the Criminal Code of 2012: 10-7  
23 (aiding or abetting child abduction under Section

1 10-5(b)(10)), 10-5(b)(10) (child luring), 11-6 (indecent  
2 solicitation of a child), 11-6.5 (indecent solicitation of  
3 an adult), 11-14.4 (promoting juvenile prostitution),  
4 11-15.1 (soliciting for a juvenile prostitute), 11-17.1  
5 (keeping a place of juvenile prostitution), 11-18.1  
6 (patronizing a juvenile prostitute), 11-19.1 (juvenile  
7 pimping), 11-19.2 (exploitation of a child), 11-20.1  
8 (child pornography), 11-20.1B or 11-20.3 (aggravated child  
9 pornography), 11-1.40 or 12-14.1 (predatory criminal  
10 sexual assault of a child), or 12-33 (ritualized abuse of a  
11 child). An attempt to commit any of these offenses.

12 (ii) A violation of any of the following Sections of  
13 the Criminal Code of 1961 or the Criminal Code of 2012:  
14 11-1.20 or 12-13 (criminal sexual assault), 11-1.30 or  
15 12-14 (aggravated criminal sexual assault), 11-1.60 or  
16 12-16 (aggravated criminal sexual abuse), and subsection  
17 (a) of Section 11-1.50 or subsection (a) of Section 12-15  
18 (criminal sexual abuse). An attempt to commit any of these  
19 offenses.

20 (iii) A violation of any of the following Sections of  
21 the Criminal Code of 1961 or the Criminal Code of 2012 when  
22 the defendant is not a parent of the victim:

23 10-1 (kidnapping),

24 10-2 (aggravated kidnapping),

25 10-3 (unlawful restraint),

26 10-3.1 (aggravated unlawful restraint).

1           An attempt to commit any of these offenses.

2           (iv) A violation of any former law of this State  
3           substantially equivalent to any offense listed in this  
4           subsection (a-5).

5           An offense violating federal law or the law of another  
6           state that is substantially equivalent to any offense listed in  
7           this subsection (a-5) shall constitute a sex offense for the  
8           purpose of this subsection (a-5). A finding or adjudication as  
9           a sexually dangerous person under any federal law or law of  
10          another state that is substantially equivalent to the Sexually  
11          Dangerous Persons Act shall constitute an adjudication for a  
12          sex offense for the purposes of this subsection (a-5).

13          (b) "Commitment" means a judicially determined placement  
14          in the custody of the Department of Corrections on the basis of  
15          delinquency or conviction.

16          (c) "Committed person" is a person committed to the  
17          Department, however a committed person shall not be considered  
18          to be an employee of the Department of Corrections for any  
19          purpose, including eligibility for a pension, benefits, or any  
20          other compensation or rights or privileges which may be  
21          provided to employees of the Department.

22          (c-5) "Computer scrub software" means any third-party  
23          added software, designed to delete information from the  
24          computer unit, the hard drive, or other software, which would  
25          eliminate and prevent discovery of browser activity, including  
26          but not limited to Internet history, address bar or bars, cache

1 or caches, and/or cookies, and which would over-write files in  
2 a way so as to make previous computer activity, including but  
3 not limited to website access, more difficult to discover.

4 (c-10) "Content-controlled tablet" means any device that  
5 can only access visitation applications or content relating to  
6 educational or personal development.

7 (d) "Correctional institution or facility" means any  
8 building or part of a building where committed persons are kept  
9 in a secured manner.

10 (e) "Department" means both the Department of Corrections  
11 and the Department of Juvenile Justice of this State, unless  
12 the context is specific to either the Department of Corrections  
13 or the Department of Juvenile Justice.

14 (f) "Director" means both the Director of Corrections and  
15 the Director of Juvenile Justice, unless the context is  
16 specific to either the Director of Corrections or the Director  
17 of Juvenile Justice.

18 (f-5) (Blank).

19 (g) "Discharge" means the final termination of a commitment  
20 to the Department of Corrections.

21 (h) "Discipline" means the rules and regulations for the  
22 maintenance of order and the protection of persons and property  
23 within the institutions and facilities of the Department and  
24 their enforcement.

25 (i) "Escape" means the intentional and unauthorized  
26 absence of a committed person from the custody of the

1 Department.

2 (j) "Furlough" means an authorized leave of absence from  
3 the Department of Corrections for a designated purpose and  
4 period of time.

5 (k) "Parole" means the conditional and revocable release of  
6 a person committed to the Department of Corrections under the  
7 supervision of a parole officer.

8 (l) "Prisoner Review Board" means the Board established in  
9 Section 3-3-1(a), independent of the Department, to review  
10 rules and regulations with respect to good time credits, to  
11 hear charges brought by the Department against certain  
12 prisoners alleged to have violated Department rules with  
13 respect to good time credits, to set release dates for certain  
14 prisoners sentenced under the law in effect prior to the  
15 effective date of this Amendatory Act of 1977, to hear and  
16 decide the time of aftercare release for persons committed to  
17 the Department of Juvenile Justice under the Juvenile Court Act  
18 of 1987 to hear requests and make recommendations to the  
19 Governor with respect to pardon, reprieve or commutation, to  
20 set conditions for parole, aftercare release, and mandatory  
21 supervised release and determine whether violations of those  
22 conditions justify revocation of parole or release, and to  
23 assume all other functions previously exercised by the Illinois  
24 Parole and Pardon Board.

25 (m) Whenever medical treatment, service, counseling, or  
26 care is referred to in this Unified Code of Corrections, such

1 term may be construed by the Department or Court, within its  
2 discretion, to include treatment, service or counseling by a  
3 Christian Science practitioner or nursing care appropriate  
4 therewith whenever request therefor is made by a person subject  
5 to the provisions of this Act.

6 (n) "Victim" shall have the meaning ascribed to it in  
7 subsection (a) of Section 3 of the Bill of Rights for Victims  
8 and Witnesses of Violent Crime Act.

9 (o) "Wrongfully imprisoned person" means a person who has  
10 been discharged from a prison of this State and has received:

11 (1) a pardon from the Governor stating that such pardon  
12 is issued on the ground of innocence of the crime for which  
13 he or she was imprisoned; or

14 (2) a certificate of innocence from the Circuit Court  
15 as provided in Section 2-702 of the Code of Civil  
16 Procedure.

17 (Source: P.A. 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13;  
18 98-558, eff. 1-1-14; 98-685, eff. 1-1-15.)

19 (730 ILCS 5/3-2-2) (from Ch. 38, par. 1003-2-2)

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

21 (1) In addition to the powers, duties and responsibilities  
22 which are otherwise provided by law, the Department shall have  
23 the following powers:

24 (a) To accept persons committed to it by the courts of  
25 this State for care, custody, treatment and

1 rehabilitation, and to accept federal prisoners and aliens  
2 over whom the Office of the Federal Detention Trustee is  
3 authorized to exercise the federal detention function for  
4 limited purposes and periods of time.

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

20 (b-1) To create and implement, on January 1, 2002, a  
21 pilot program to establish the effectiveness of  
22 pupillometer technology (the measurement of the pupil's  
23 reaction to light) as an alternative to a urine test for  
24 purposes of screening and evaluating persons committed to  
25 its custody who have alcohol or drug problems. The pilot  
26 program shall require the pupillometer technology to be

1 used in at least one Department of Corrections facility.  
2 The Director may expand the pilot program to include an  
3 additional facility or facilities as he or she deems  
4 appropriate. A minimum of 4,000 tests shall be included in  
5 the pilot program. The Department must report to the  
6 General Assembly on the effectiveness of the program by  
7 January 1, 2003.

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

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

23 Pursuant to its power to establish new institutions and  
24 facilities, the Department may authorize the Department of  
25 Central Management Services to accept bids from counties  
26 and municipalities for the construction, remodeling or



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

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

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

1 1987, whether the transfer was by operation of law or  
2 permissive under that Section. The Department shall  
3 designate the counties to be served by each regional  
4 juvenile detention center.

5 (d) To develop and maintain programs of control,  
6 rehabilitation and employment of committed persons within  
7 its institutions.

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

10 (d-10) To provide educational and visitation  
11 opportunities to committed persons within its institutions  
12 through temporary access to content-controlled tablets  
13 that may be provided as a privilege to committed persons to  
14 induce or reward compliance.

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

17 (f) To establish in cooperation with the Department of  
18 Transportation to supply a sufficient number of prisoners  
19 for use by the Department of Transportation to clean up the  
20 trash and garbage along State, county, township, or  
21 municipal highways as designated by the Department of  
22 Transportation. The Department of Corrections, at the  
23 request of the Department of Transportation, shall furnish  
24 such prisoners at least annually for a period to be agreed  
25 upon between the Director of Corrections and the Director  
26 of Transportation. The prisoners used on this program shall

1 be selected by the Director of Corrections on whatever  
2 basis he deems proper in consideration of their term,  
3 behavior and earned eligibility to participate in such  
4 program - where they will be outside of the prison facility  
5 but still in the custody of the Department of Corrections.  
6 Prisoners convicted of first degree murder, or a Class X  
7 felony, or armed violence, or aggravated kidnapping, or  
8 criminal sexual assault, aggravated criminal sexual abuse  
9 or a subsequent conviction for criminal sexual abuse, or  
10 forcible detention, or arson, or a prisoner adjudged a  
11 Habitual Criminal shall not be eligible for selection to  
12 participate in such program. The prisoners shall remain as  
13 prisoners in the custody of the Department of Corrections  
14 and such Department shall furnish whatever security is  
15 necessary. The Department of Transportation shall furnish  
16 trucks and equipment for the highway cleanup program and  
17 personnel to supervise and direct the program. Neither the  
18 Department of Corrections nor the Department of  
19 Transportation shall replace any regular employee with a  
20 prisoner.

21 (g) To maintain records of persons committed to it and  
22 to establish programs of research, statistics and  
23 planning.

24 (h) To investigate the grievances of any person  
25 committed to the Department, to inquire into any alleged  
26 misconduct by employees or committed persons, and to

1 investigate the assets of committed persons to implement  
2 Section 3-7-6 of this Code; and for these purposes it may  
3 issue subpoenas and compel the attendance of witnesses and  
4 the production of writings and papers, and may examine  
5 under oath any witnesses who may appear before it; to also  
6 investigate alleged violations of a parolee's or  
7 releasee's conditions of parole or release; and for this  
8 purpose it may issue subpoenas and compel the attendance of  
9 witnesses and the production of documents only if there is  
10 reason to believe that such procedures would provide  
11 evidence that such violations have occurred.

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

17 (i) To appoint and remove the chief administrative  
18 officers, and administer programs of training and  
19 development of personnel of the Department. Personnel  
20 assigned by the Department to be responsible for the  
21 custody and control of committed persons or to investigate  
22 the alleged misconduct of committed persons or employees or  
23 alleged violations of a parolee's or releasee's conditions  
24 of parole shall be conservators of the peace for those  
25 purposes, and shall have the full power of peace officers  
26 outside of the facilities of the Department in the

1 protection, arrest, retaking and reconfining of committed  
2 persons or where the exercise of such power is necessary to  
3 the investigation of such misconduct or violations. This  
4 subsection shall not apply to persons committed to the  
5 Department of Juvenile Justice under the Juvenile Court Act  
6 of 1987 on aftercare release.

7 (j) To cooperate with other departments and agencies  
8 and with local communities for the development of standards  
9 and programs for better correctional services in this  
10 State.

11 (k) To administer all moneys and properties of the  
12 Department.

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

15 (l-5) (Blank).

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

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

22 (o) To administer the distribution of funds from the  
23 State Treasury to reimburse counties where State penal  
24 institutions are located for the payment of assistant  
25 state's attorneys' salaries under Section 4-2001 of the  
26 Counties Code.

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

7           (q) To establish a diversion program.

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

15           Elements of the program shall include, but shall not be  
16 limited to, the following:

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

20           (2) Participants shall be required to maintain  
21 employment.

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

25           (4) Each participant shall:

26           (A) provide restitution to victims in

1           accordance with any court order;

2                   (B) provide financial support to his  
3 dependents; and

4                   (C) make appropriate payments toward any other  
5 court-ordered obligations.

6           (5) Each participant shall complete community  
7 service in addition to employment.

8           (6) Participants shall take part in such  
9 counseling, educational and other programs as the  
10 Department may deem appropriate.

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

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

15           (r) To enter into intergovernmental cooperation  
16 agreements under which persons in the custody of the  
17 Department may participate in a county impact  
18 incarceration program established under Section 3-6038 or  
19 3-15003.5 of the Counties Code.

20           (r-5) (Blank).

21           (r-10) To systematically and routinely identify with  
22 respect to each streetgang active within the correctional  
23 system: (1) each active gang; (2) every existing inter-gang  
24 affiliation or alliance; and (3) the current leaders in  
25 each gang. The Department shall promptly segregate leaders  
26 from inmates who belong to their gangs and allied gangs.

1 "Segregate" means no physical contact and, to the extent  
2 possible under the conditions and space available at the  
3 correctional facility, prohibition of visual and sound  
4 communication. For the purposes of this paragraph (r-10),  
5 "leaders" means persons who:

6 (i) are members of a criminal streetgang;

7 (ii) with respect to other individuals within the  
8 streetgang, occupy a position of organizer,  
9 supervisor, or other position of management or  
10 leadership; and

11 (iii) are actively and personally engaged in  
12 directing, ordering, authorizing, or requesting  
13 commission of criminal acts by others, which are  
14 punishable as a felony, in furtherance of streetgang  
15 related activity both within and outside of the  
16 Department of Corrections.

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

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

24 (t) To monitor any unprivileged conversation or any  
25 unprivileged communication, whether in person or by mail,  
26 telephone, or other means, between an inmate who, before



1 commitment to the Department, was a member of an organized  
2 gang and any other person without the need to show cause or  
3 satisfy any other requirement of law before beginning the  
4 monitoring, except as constitutionally required. The  
5 monitoring may be by video, voice, or other method of  
6 recording or by any other means. As used in this  
7 subdivision (1)(t), "organized gang" has the meaning  
8 ascribed to it in Section 10 of the Illinois Streetgang  
9 Terrorism Omnibus Prevention Act.

10 As used in this subdivision (1)(t), "unprivileged  
11 conversation" or "unprivileged communication" means a  
12 conversation or communication that is not protected by any  
13 privilege recognized by law or by decision, rule, or order  
14 of the Illinois Supreme Court.

15 (u) To establish a Women's and Children's Pre-release  
16 Community Supervision Program for the purpose of providing  
17 housing and services to eligible female inmates, as  
18 determined by the Department, and their newborn and young  
19 children.

20 (u-5) To issue an order, whenever a person committed to  
21 the Department absconds or absents himself or herself,  
22 without authority to do so, from any facility or program to  
23 which he or she is assigned. The order shall be certified  
24 by the Director, the Supervisor of the Apprehension Unit,  
25 or any person duly designated by the Director, with the  
26 seal of the Department affixed. The order shall be directed

1 to all sheriffs, coroners, and police officers, or to any  
2 particular person named in the order. Any order issued  
3 pursuant to this subdivision (1) (u-5) shall be sufficient  
4 warrant for the officer or person named in the order to  
5 arrest and deliver the committed person to the proper  
6 correctional officials and shall be executed the same as  
7 criminal process.

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

10 (2) The Department of Corrections shall by January 1, 1998,  
11 consider building and operating a correctional facility within  
12 100 miles of a county of over 2,000,000 inhabitants, especially  
13 a facility designed to house juvenile participants in the  
14 impact incarceration program.

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

23 (4) When the Department lets bids for contracts for food or  
24 commissary services to be provided to Department facilities,  
25 the bid may only be let to a food or commissary services  
26 provider that has obtained an irrevocable letter of credit or

1 performance bond issued by a company whose bonds have an  
2 investment grade or higher rating by a bond rating  
3 organization.

4 (5) On and after the date 6 months after August 16, 2013  
5 (the effective date of Public Act 98-488), as provided in the  
6 Executive Order 1 (2012) Implementation Act, all of the powers,  
7 duties, rights, and responsibilities related to State  
8 healthcare purchasing under this Code that were transferred  
9 from the Department of Corrections to the Department of  
10 Healthcare and Family Services by Executive Order 3 (2005) are  
11 transferred back to the Department of Corrections; however,  
12 powers, duties, rights, and responsibilities related to State  
13 healthcare purchasing under this Code that were exercised by  
14 the Department of Corrections before the effective date of  
15 Executive Order 3 (2005) but that pertain to individuals  
16 resident in facilities operated by the Department of Juvenile  
17 Justice are transferred to the Department of Juvenile Justice.  
18 (Source: P.A. 97-697, eff. 6-22-12; 97-800, eff. 7-13-12;  
19 97-802, eff. 7-13-12; 98-463, eff. 8-16-13; 98-488, eff.  
20 8-16-13; 98-558, eff. 1-1-14; 98-756, eff. 7-16-14.)