

HB3831



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3831

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2
730 ILCS 5/3-10-2

from Ch. 38, par. 1003-6-2
from Ch. 38, par. 1003-10-2

Amends the Unified Code of Corrections. Provides that the Department of Corrections shall provide educational programs in each of its institutions and facilities for all committed persons. Provides that the Department must allow into each institution and facility of the Department teachers who hold Professional Educator Licenses issued by the State Superintendent of Education under the School Code to teach committed persons. Provides that the Department shall provide vocational training for committed persons in each institution and facility of the Department. Provides that each institution and facility of the Department of Juvenile Justice shall provide educational and vocational training for all persons committed to the Department. Effective immediately.

LRB100 08922 RLC 19065 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 3-6-2 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.

17 (c) The Director or Assistant Director shall have the
18 emergency powers to temporarily transfer individuals without
19 formal procedures to any State, county, municipal or regional
20 correctional or detention institution or facility in the State,
21 subject to the acceptance of such receiving institution or
22 facility, or to designate any reasonably secure place in the
23 State as such an institution or facility and to make transfers

1 thereto. However, transfers made under emergency powers shall
2 be reviewed as soon as practicable under Article 8, and shall
3 be subject to Section 5-905 of the Juvenile Court Act of 1987.
4 This Section shall not apply to transfers to the Department of
5 Human Services which are provided for under Section 3-8-5 or
6 Section 3-10-5.

7 (d) The Department shall provide educational programs in
8 each of its institutions and facilities for all committed
9 persons so that all persons have an opportunity to attain the
10 achievement level equivalent to the completion of the twelfth
11 grade in the public school system in this State. Other higher
12 levels of attainment shall be encouraged and professional
13 instruction shall be maintained wherever possible. The
14 Department must allow into each institution and facility of the
15 Department teachers who hold Professional Educator Licenses
16 issued by the State Superintendent of Education under the
17 School Code to teach committed persons. The Department may
18 establish programs of mandatory education and may establish
19 rules and regulations for the administration of such programs.
20 A person committed to the Department who, during the period of
21 his or her incarceration, participates in an educational
22 program provided by or through the Department and through that
23 program is awarded or earns the number of hours of credit
24 required for the award of an associate, baccalaureate, or
25 higher degree from a community college, college, or university
26 located in Illinois shall reimburse the State, through the

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

13 (d-1) The Department shall provide vocational training for
14 committed persons in each institution and facility of the
15 Department.

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

25 (e) A person committed to the Department who becomes in
26 need of medical or surgical treatment but is incapable of

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

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

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

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

25 (f) In the event that the person requires medical care and
26 treatment at a place other than the institution or facility,

1 the person may be removed therefrom under conditions prescribed
2 by the Department. The Department shall require the committed
3 person receiving medical or dental services on a non-emergency
4 basis to pay a \$5 co-payment to the Department for each visit
5 for medical or dental services. The amount of each co-payment
6 shall be deducted from the committed person's individual
7 account. A committed person who has a chronic illness, as
8 defined by Department rules and regulations, shall be exempt
9 from the \$5 co-payment for treatment of the chronic illness. A
10 committed person shall not be subject to a \$5 co-payment for
11 follow-up visits ordered by a physician, who is employed by, or
12 contracts with, the Department. A committed person who is
13 indigent is exempt from the \$5 co-payment and is entitled to
14 receive medical or dental services on the same basis as a
15 committed person who is financially able to afford the
16 co-payment. For purposes of this Section only, "indigent" means
17 a committed person who has \$20 or less in his or her Inmate
18 Trust Fund at the time of such services and for the 30 days
19 prior to such services. Notwithstanding any other provision in
20 this subsection (f) to the contrary, any person committed to
21 any facility operated by the Department of Juvenile Justice, as
22 set forth in Section 3-2.5-15 of this Code, is exempt from the
23 co-payment requirement for the duration of confinement in those
24 facilities.

25 (g) Any person having sole custody of a child at the time
26 of commitment or any woman giving birth to a child after her

1 commitment, may arrange through the Department of Children and
2 Family Services for suitable placement of the child outside of
3 the Department of Corrections. The Director of the Department
4 of Corrections may determine that there are special reasons why
5 the child should continue in the custody of the mother until
6 the child is 6 years old.

7 (h) The Department may provide Family Responsibility
8 Services which may consist of, but not be limited to the
9 following:

10 (1) family advocacy counseling;

11 (2) parent self-help group;

12 (3) parenting skills training;

13 (4) parent and child overnight program;

14 (5) parent and child reunification counseling, either
15 separately or together, preceding the inmate's release;
16 and

17 (6) a prerelease reunification staffing involving the
18 family advocate, the inmate and the child's counselor, or
19 both and the inmate.

20 (i) (Blank).

21 (j) Any person convicted of a sex offense as defined in the
22 Sex Offender Management Board Act shall be required to receive
23 a sex offender evaluation prior to release into the community
24 from the Department of Corrections. The sex offender evaluation
25 shall be conducted in conformance with the standards and
26 guidelines developed under the Sex Offender Management Board

1 Act and by an evaluator approved by the Board.

2 (k) Any minor committed to the Department of Juvenile
3 Justice for a sex offense as defined by the Sex Offender
4 Management Board Act shall be required to undergo sex offender
5 treatment by a treatment provider approved by the Board and
6 conducted in conformance with the Sex Offender Management Board
7 Act.

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

1 acceptance of testing shall be documented in the inmate's
2 medical record. The Department shall follow procedures
3 established by the Department of Public Health to conduct HIV
4 testing and testing to confirm positive HIV test results. All
5 testing must be conducted by medical personnel, but pre-test
6 and other information may be provided by committed persons who
7 have received appropriate training. The Department, in
8 conjunction with the Department of Public Health, shall develop
9 a plan that complies with the AIDS Confidentiality Act to
10 deliver confidentially all positive or negative HIV test
11 results to inmates or former inmates. Nothing in this Section
12 shall require the Department to offer HIV testing to an inmate
13 who is known to be infected with HIV, or who has been tested
14 for HIV within the previous 180 days and whose documented HIV
15 test result is available to the Department electronically. The
16 testing provided under this subsection (1) shall consist of a
17 test approved by the Illinois Department of Public Health to
18 determine the presence of HIV infection, based upon
19 recommendations of the United States Centers for Disease
20 Control and Prevention. If the test result is positive, a
21 reliable supplemental test based upon recommendations of the
22 United States Centers for Disease Control and Prevention shall
23 be administered.

24 Prior to the release of an inmate who the Department knows
25 has tested positive for infection with HIV, the Department in a
26 timely manner shall offer the inmate transitional case

1 management, including referrals to other support services.

2 (m) The chief administrative officer of each institution or
3 facility of the Department shall make a room in the institution
4 or facility available for addiction recovery services to be
5 provided to committed persons on a voluntary basis. The
6 services shall be provided for one hour once a week at a time
7 specified by the chief administrative officer of the
8 institution or facility if the following conditions are met:

9 (1) the addiction recovery service contacts the chief
10 administrative officer to arrange the meeting;

11 (2) the committed person may attend the meeting for
12 addiction recovery services only if the committed person
13 uses pre-existing free time already available to the
14 committed person;

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

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

19 (5) if the addiction recovery service does not arrange
20 for scheduling a meeting for that week, no addiction
21 recovery services shall be provided to the committed person
22 in the institution or facility for that week;

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

26 (7) a volunteer seeking to provide addiction recovery

1 services under this subsection (m) must submit an
2 application to the Department of Corrections under
3 existing Department rules and the Department must review
4 the application within 60 days after submission of the
5 application to the Department; and

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

9 For the purposes of this subsection (m), "addiction
10 recovery services" means recovery services for alcoholics and
11 addicts provided by volunteers of recovery support services
12 recognized by the Department of Human Services.

13 (Source: P.A. 96-284, eff. 1-1-10; 97-244, eff. 8-4-11; 97-323,
14 eff. 8-12-11; 97-562, eff. 1-1-12; 97-802, eff. 7-13-12;
15 97-813, eff. 7-13-12.)

16 (730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

17 Sec. 3-10-2. Examination of Persons Committed to the
18 Department of Juvenile Justice.

19 (a) A person committed to the Department of Juvenile
20 Justice shall be examined in regard to his medical,
21 psychological, social, educational and vocational condition
22 and history, including the use of alcohol and other drugs, the
23 circumstances of his offense and any other information as the
24 Department of Juvenile Justice may determine.

25 (a-5) Upon admission of a person committed to the

1 Department of Juvenile Justice, the Department of Juvenile
2 Justice must provide the person with appropriate information
3 concerning HIV and AIDS in writing, verbally, or by video or
4 other electronic means. The Department of Juvenile Justice
5 shall develop the informational materials in consultation with
6 the Department of Public Health. At the same time, the
7 Department of Juvenile Justice also must offer the person the
8 option of being tested, at no charge to the person, for
9 infection with human immunodeficiency virus (HIV). Pre-test
10 information shall be provided to the committed person and
11 informed consent obtained as required in subsection (q) of
12 Section 3 and Section 5 of the AIDS Confidentiality Act. The
13 Department of Juvenile Justice may conduct opt-out HIV testing
14 as defined in Section 4 of the AIDS Confidentiality Act. If the
15 Department conducts opt-out HIV testing, the Department shall
16 place signs in English, Spanish and other languages as needed
17 in multiple, highly visible locations in the area where HIV
18 testing is conducted informing inmates that they will be tested
19 for HIV unless they refuse, and refusal or acceptance of
20 testing shall be documented in the inmate's medical record. The
21 Department shall follow procedures established by the
22 Department of Public Health to conduct HIV testing and testing
23 to confirm positive HIV test results. All testing must be
24 conducted by medical personnel, but pre-test and other
25 information may be provided by committed persons who have
26 received appropriate training. The Department, in conjunction

1 with the Department of Public Health, shall develop a plan that
2 complies with the AIDS Confidentiality Act to deliver
3 confidentially all positive or negative HIV test results to
4 inmates or former inmates. Nothing in this Section shall
5 require the Department to offer HIV testing to an inmate who is
6 known to be infected with HIV, or who has been tested for HIV
7 within the previous 180 days and whose documented HIV test
8 result is available to the Department electronically. The
9 testing provided under this subsection (a-5) shall consist of a
10 test approved by the Illinois Department of Public Health to
11 determine the presence of HIV infection, based upon
12 recommendations of the United States Centers for Disease
13 Control and Prevention. If the test result is positive, a
14 reliable supplemental test based upon recommendations of the
15 United States Centers for Disease Control and Prevention shall
16 be administered.

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

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

25 (1) Require participation by him in vocational,
26 physical, educational and corrective training and

1 activities to return him to the community.

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

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

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

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

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

23 (e) The Department of Juvenile Justice shall by certified
24 mail and telephone or electronic message notify the parent,
25 guardian or nearest relative of any person committed to the
26 Department of Juvenile Justice of his or her physical location

1 and any change thereof.

2 (f) Each institution and facility of the Department of
3 Juvenile Justice shall provide educational and vocational
4 training for all persons committed to the Department.

5 (Source: P.A. 98-689, eff. 1-1-15; 98-1046, eff. 1-1-15; 99-78,
6 eff. 7-20-15.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.