



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4133

by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-8-2	from Ch. 38, par. 1003-8-2
730 ILCS 5/3-8-4	from Ch. 38, par. 1003-8-4
730 ILCS 5/3-10-2	from Ch. 38, par. 1003-10-2
730 ILCS 5/3-10-4	from Ch. 38, par. 1003-10-4

Amends the Unified Code of Corrections. Provides that a committed person to the Department of Corrections or the Department of Juvenile Justice shall be assigned to an institution or facility in so far as practicable in accordance with the committed person's social evaluation and nearest to his or her last known residence address. Provides that if a committed person is assigned to an institution or facility that is appropriate based upon his or her social evaluation but is not nearest to his or her last known residence address because the institution or facility does not have the capacity to house the committed person, the committed person shall be transferred to the institution or facility nearest to his or her last known residence address when the capacity to house him or her is available.

LRB100 15258 RLC 30164 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 3-8-2, 3-8-4, 3-10-2, and 3-10-4 as follows:

6 (730 ILCS 5/3-8-2) (from Ch. 38, par. 1003-8-2)

7 Sec. 3-8-2. Social Evaluation; physical examination;  
8 HIV/AIDS.

9 (a) A social evaluation shall be made of a committed  
10 person's medical, psychological, educational and vocational  
11 condition and history, including the use of alcohol and other  
12 drugs, the circumstances of his offense, and such other  
13 information as the Department may determine. The committed  
14 person shall be assigned to an institution or facility in so  
15 far as practicable in accordance with the social evaluation and  
16 nearest to his or her last known residence address.  
17 Recommendations shall be made for medical, dental,  
18 psychiatric, psychological and social service treatment.

19 (b) A record of the social evaluation shall be entered in  
20 the committed person's master record file and shall be  
21 forwarded to the institution or facility to which the person is  
22 assigned.

23 (c) Upon admission to a correctional institution each

1 committed person shall be given a physical examination. If he  
2 is suspected of having a communicable disease that in the  
3 judgment of the Department medical personnel requires medical  
4 isolation, the committed person shall remain in medical  
5 isolation until it is no longer deemed medically necessary.

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

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

21 (Source: P.A. 97-244, eff. 8-4-11; 97-323, eff. 8-12-11;  
22 97-813, eff. 7-13-12; 98-1046, eff. 1-1-15.)

23 (730 ILCS 5/3-8-4) (from Ch. 38, par. 1003-8-4)

24 Sec. 3-8-4. Intradivisional Transfers.

25 (a) After the initial assignments under Sections 3-8-2 and

1 3-8-3, all transfers of committed persons to another  
2 institution or facility shall be reviewed and approved by a  
3 person or persons designated by the Director. If a committed  
4 person is assigned to an institution or facility that is  
5 appropriate based upon his or her social evaluation but is not  
6 nearest to his or her last known residence address because the  
7 institution or facility does not have the capacity to house the  
8 committed person, the committed person shall be transferred to  
9 the institution or facility nearest to his or her last known  
10 residence address when the capacity to house him or her is  
11 available. A record of each transfer and the reasons therefor  
12 shall be included in the person's master record file.

13 (b) Transfers to facilities for psychiatric treatment and  
14 care within the Department shall be made only after prior  
15 psychiatric examination and certification to the Director that  
16 such transfer is required. Persons in facilities for  
17 psychiatric treatment and care within the Department shall be  
18 reexamined at least every 6 months. Persons found to no longer  
19 require psychiatric treatment and care shall be transferred to  
20 other facilities of the Department.

21 (Source: P.A. 77-2097.)

22 (730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

23 (Text of Section before amendment by P.A. 100-19)

24 Sec. 3-10-2. Examination of persons committed to the  
25 Department of Juvenile Justice.

1           (a) A person committed to the Department of Juvenile  
2 Justice shall be examined in regard to his medical,  
3 psychological, social, educational and vocational condition  
4 and history, including the use of alcohol and other drugs, the  
5 circumstances of his offense and any other information as the  
6 Department of Juvenile Justice may determine.

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

1 testing shall be documented in the inmate's medical record. The  
2 Department shall follow procedures established by the  
3 Department of Public Health to conduct HIV testing and testing  
4 to confirm positive HIV test results. All testing must be  
5 conducted by medical personnel, but pre-test and other  
6 information may be provided by committed persons who have  
7 received appropriate training. The Department, in conjunction  
8 with the Department of Public Health, shall develop a plan that  
9 complies with the AIDS Confidentiality Act to deliver  
10 confidentially all positive or negative HIV test results to  
11 inmates or former inmates. Nothing in this Section shall  
12 require the Department to offer HIV testing to an inmate who is  
13 known to be infected with HIV, or who has been tested for HIV  
14 within the previous 180 days and whose documented HIV test  
15 result is available to the Department electronically. The  
16 testing provided under this subsection (a-5) 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 Also upon admission of a person committed to the Department  
25 of Juvenile Justice, the Department of Juvenile Justice must  
26 inform the person of the Department's obligation to provide the

1 person with medical care.

2 (b) Based on its examination, the Department of Juvenile  
3 Justice may exercise the following powers in developing a  
4 treatment program of any person committed to the Department of  
5 Juvenile Justice:

6 (1) Require participation by him in vocational,  
7 physical, educational and corrective training and  
8 activities to return him to the community.

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

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

15 (4) Enter into agreements with the Secretary of Human  
16 Services and the Director of Children and Family Services,  
17 with courts having probation officers, and with private  
18 agencies or institutions for separate care or special  
19 treatment of persons subject to the control of the  
20 Department of Juvenile Justice.

21 (c) The Department of Juvenile Justice shall make periodic  
22 reexamination of all persons under the control of the  
23 Department of Juvenile Justice to determine whether existing  
24 orders in individual cases should be modified or continued.  
25 This examination shall be made with respect to every person at  
26 least once annually.



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

4 (e) The Department of Juvenile Justice shall by certified  
5 mail and telephone or electronic message notify the parent,  
6 guardian or nearest relative of any person committed to the  
7 Department of Juvenile Justice of his or her physical location  
8 and any change thereof.

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

11 (Text of Section after amendment by P.A. 100-19)

12 Sec. 3-10-2. Examination of persons committed to the  
13 Department of Juvenile Justice.

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

20 (a-5) Upon admission of a person committed to the  
21 Department of Juvenile Justice, the Department of Juvenile  
22 Justice must provide the person with appropriate information  
23 concerning HIV and AIDS in writing, verbally, or by video or  
24 other electronic means. The Department of Juvenile Justice  
25 shall develop the informational materials in consultation with

1 the Department of Public Health. At the same time, the  
2 Department of Juvenile Justice also must offer the person the  
3 option of being tested, at no charge to the person, for  
4 infection with human immunodeficiency virus (HIV). Pre-test  
5 information shall be provided to the committed person and  
6 informed consent obtained as required in subsection (q) of  
7 Section 3 and Section 5 of the AIDS Confidentiality Act. The  
8 Department of Juvenile Justice may conduct opt-out HIV testing  
9 as defined in Section 4 of the AIDS Confidentiality Act. If the  
10 Department conducts opt-out HIV testing, the Department shall  
11 place signs in English, Spanish and other languages as needed  
12 in multiple, highly visible locations in the area where HIV  
13 testing is conducted informing inmates that they will be tested  
14 for HIV unless they refuse, and refusal or acceptance of  
15 testing shall be documented in the inmate's medical record. The  
16 Department shall follow procedures established by the  
17 Department of Public Health to conduct HIV testing and testing  
18 to confirm positive HIV test results. All testing must be  
19 conducted by medical personnel, but pre-test and other  
20 information may be provided by committed persons who have  
21 received appropriate training. The Department, in conjunction  
22 with the Department of Public Health, shall develop a plan that  
23 complies with the AIDS Confidentiality Act to deliver  
24 confidentially all positive or negative HIV test results to  
25 inmates or former inmates. Nothing in this Section shall  
26 require the Department to offer HIV testing to an inmate who is

1 known to be infected with HIV, or who has been tested for HIV  
2 within the previous 180 days and whose documented HIV test  
3 result is available to the Department electronically. The  
4 testing provided under this subsection (a-5) shall consist of a  
5 test approved by the Illinois Department of Public Health to  
6 determine the presence of HIV infection, based upon  
7 recommendations of the United States Centers for Disease  
8 Control and Prevention. If the test result is positive, a  
9 reliable supplemental test based upon recommendations of the  
10 United States Centers for Disease Control and Prevention shall  
11 be administered.

12 Also upon admission of a person committed to the Department  
13 of Juvenile Justice, the Department of Juvenile Justice must  
14 inform the person of the Department's obligation to provide the  
15 person with medical care.

16 (b) Based on its examination, the Department of Juvenile  
17 Justice may exercise the following powers in developing a  
18 treatment program of any person committed to the Department of  
19 Juvenile Justice:

20 (1) Require participation by him in vocational,  
21 physical, educational and corrective training and  
22 activities to return him to the community.

23 (2) Place him in any institution or facility of the  
24 Department of Juvenile Justice nearest to his or her last  
25 known residence address in so far as practicable.

26 (3) Order replacement or referral to the Parole and

1 Pardon Board as often as it deems desirable. The Department  
2 of Juvenile Justice shall refer the person to the Parole  
3 and Pardon Board as required under Section 3-3-4.

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

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

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

19 (e) The Department of Juvenile Justice shall by regular  
20 mail and telephone or electronic message notify the parent,  
21 guardian, or nearest relative of any person committed to the  
22 Department of Juvenile Justice of his or her physical location  
23 and any change of his or her physical location.

24 (Source: P.A. 99-78, eff. 7-20-15; 100-19, eff. 1-1-18.)

25 (730 ILCS 5/3-10-4) (from Ch. 38, par. 1003-10-4)

1           Sec. 3-10-4. Intradivisional Transfers.

2           (a) The transfer of committed persons between institutions  
3 or facilities of the Department of Juvenile Justice shall be  
4 under this Section, except that emergency transfers shall be  
5 under Section 3-6-2.

6           (b) The chief administrative officer of an institution or  
7 facility desiring to transfer a committed person to another  
8 institution or facility shall notify the Director of Juvenile  
9 Justice or his delegate of the basis for the transfer. The  
10 Director or his delegate shall approve or deny such request.

11           If a committed person is assigned to an institution or  
12 facility of the Department of Juvenile Justice that is  
13 appropriate based upon his or her evaluation under Section  
14 3-10-2 but is not nearest to his or her last known residence  
15 address because the institution or facility does not have the  
16 capacity to house the committed person, the committed person  
17 shall be transferred to the institution or facility of the  
18 Department of Juvenile Justice nearest to his or her last known  
19 residence address when the capacity to house him or her is  
20 available.

21           (c) If a transfer request is made by a committed person or  
22 his parent, guardian or nearest relative, the chief  
23 administrative officer of the institution or facility from  
24 which the transfer is requested shall notify the Director of  
25 Juvenile Justice or his delegate of the request, the reasons  
26 therefor and his recommendation. The Director of Juvenile

1 Justice or his delegate shall either grant the request or if he  
2 denies the request he shall advise the person or his parent,  
3 guardian or nearest relative of the basis for the denial.

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

5 Section 95. No acceleration or delay. Where this Act makes  
6 changes in a statute that is represented in this Act by text  
7 that is not yet or no longer in effect (for example, a Section  
8 represented by multiple versions), the use of that text does  
9 not accelerate or delay the taking effect of (i) the changes  
10 made by this Act or (ii) provisions derived from any other  
11 Public Act.