

1 AN ACT concerning State government.

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 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 responsibilities  
9 which are otherwise provided by law, the Department shall have  
10 the following powers:

11 (a) To accept persons committed to it by the courts of  
12 this State for care, custody, treatment and  
13 rehabilitation, and to accept federal prisoners and aliens  
14 over whom the Office of the Federal Detention Trustee is  
15 authorized to exercise the federal detention function for  
16 limited purposes and periods of time.

17 (b) To develop and maintain reception and evaluation  
18 units for purposes of analyzing the custody and  
19 rehabilitation needs of persons committed to it and to  
20 assign such persons to institutions and programs under its  
21 control or transfer them to other appropriate agencies. In  
22 consultation with the Department of Alcoholism and  
23 Substance Abuse (now the Department of Human Services), the

1 Department of Corrections shall develop a master plan for  
2 the screening and evaluation of persons committed to its  
3 custody who have alcohol or drug abuse problems, and for  
4 making appropriate treatment available to such persons;  
5 the Department shall report to the General Assembly on such  
6 plan not later than April 1, 1987. The maintenance and  
7 implementation of such plan shall be contingent upon the  
8 availability of funds.

9 (b-1) To create and implement, on January 1, 2002, a  
10 pilot program to establish the effectiveness of  
11 pupillometer technology (the measurement of the pupil's  
12 reaction to light) as an alternative to a urine test for  
13 purposes of screening and evaluating persons committed to  
14 its custody who have alcohol or drug problems. The pilot  
15 program shall require the pupillometer technology to be  
16 used in at least one Department of Corrections facility.  
17 The Director may expand the pilot program to include an  
18 additional facility or facilities as he or she deems  
19 appropriate. A minimum of 4,000 tests shall be included in  
20 the pilot program. The Department must report to the  
21 General Assembly on the effectiveness of the program by  
22 January 1, 2003.

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

1           (c) To maintain and administer all State correctional  
2 institutions and facilities under its control and to  
3 establish new ones as needed. Pursuant to its power to  
4 establish new institutions and facilities, the Department  
5 may, with the written approval of the Governor, authorize  
6 the Department of Central Management Services to enter into  
7 an agreement of the type described in subsection (d) of  
8 Section 405-300 of the Department of Central Management  
9 Services Law (20 ILCS 405/405-300). The Department shall  
10 designate those institutions which shall constitute the  
11 State Penitentiary System.

12           Pursuant to its power to establish new institutions and  
13 facilities, the Department may authorize the Department of  
14 Central Management Services to accept bids from counties  
15 and municipalities for the construction, remodeling or  
16 conversion of a structure to be leased to the Department of  
17 Corrections for the purposes of its serving as a  
18 correctional institution or facility. Such construction,  
19 remodeling or conversion may be financed with revenue bonds  
20 issued pursuant to the Industrial Building Revenue Bond Act  
21 by the municipality or county. The lease specified in a bid  
22 shall be for a term of not less than the time needed to  
23 retire any revenue bonds used to finance the project, but  
24 not to exceed 40 years. The lease may grant to the State  
25 the option to purchase the structure outright.

26           Upon receipt of the bids, the Department may certify

1 one or more of the bids and shall submit any such bids to  
2 the General Assembly for approval. Upon approval of a bid  
3 by a constitutional majority of both houses of the General  
4 Assembly, pursuant to joint resolution, the Department of  
5 Central Management Services may enter into an agreement  
6 with the county or municipality pursuant to such bid.

7 (c-5) To build and maintain regional juvenile  
8 detention centers and to charge a per diem to the counties  
9 as established by the Department to defray the costs of  
10 housing each minor in a center. In this subsection (c-5),  
11 "juvenile detention center" means a facility to house  
12 minors during pendency of trial who have been transferred  
13 from proceedings under the Juvenile Court Act of 1987 to  
14 prosecutions under the criminal laws of this State in  
15 accordance with Section 5-805 of the Juvenile Court Act of  
16 1987, whether the transfer was by operation of law or  
17 permissive under that Section. The Department shall  
18 designate the counties to be served by each regional  
19 juvenile detention center.

20 (d) To develop and maintain programs of control,  
21 rehabilitation and employment of committed persons within  
22 its institutions.

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

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

1           (f) To establish in cooperation with the Department of  
2           Transportation to supply a sufficient number of prisoners  
3           for use by the Department of Transportation to clean up the  
4           trash and garbage along State, county, township, or  
5           municipal highways as designated by the Department of  
6           Transportation. The Department of Corrections, at the  
7           request of the Department of Transportation, shall furnish  
8           such prisoners at least annually for a period to be agreed  
9           upon between the Director of Corrections and the Director  
10          of Transportation. The prisoners used on this program shall  
11          be selected by the Director of Corrections on whatever  
12          basis he deems proper in consideration of their term,  
13          behavior and earned eligibility to participate in such  
14          program - where they will be outside of the prison facility  
15          but still in the custody of the Department of Corrections.  
16          Prisoners convicted of first degree murder, or a Class X  
17          felony, or armed violence, or aggravated kidnapping, or  
18          criminal sexual assault, aggravated criminal sexual abuse  
19          or a subsequent conviction for criminal sexual abuse, or  
20          forcible detention, or arson, or a prisoner adjudged a  
21          Habitual Criminal shall not be eligible for selection to  
22          participate in such program. The prisoners shall remain as  
23          prisoners in the custody of the Department of Corrections  
24          and such Department shall furnish whatever security is  
25          necessary. The Department of Transportation shall furnish  
26          trucks and equipment for the highway cleanup program and

1 personnel to supervise and direct the program. Neither the  
2 Department of Corrections nor the Department of  
3 Transportation shall replace any regular employee with a  
4 prisoner.

5 (g) To maintain records of persons committed to it and  
6 to establish programs of research, statistics and  
7 planning.

8 (h) To investigate the grievances of any person  
9 committed to the Department, to inquire into any alleged  
10 misconduct by employees or committed persons, and to  
11 investigate the assets of committed persons to implement  
12 Section 3-7-6 of this Code; and for these purposes it may  
13 issue subpoenas and compel the attendance of witnesses and  
14 the production of writings and papers, and may examine  
15 under oath any witnesses who may appear before it; to also  
16 investigate alleged violations of a parolee's or  
17 releasee's conditions of parole or release; and for this  
18 purpose it may issue subpoenas and compel the attendance of  
19 witnesses and the production of documents only if there is  
20 reason to believe that such procedures would provide  
21 evidence that such violations have occurred.

22 If any person fails to obey a subpoena issued under  
23 this subsection, the Director may apply to any circuit  
24 court to secure compliance with the subpoena. The failure  
25 to comply with the order of the court issued in response  
26 thereto shall be punishable as contempt of court.

1           (i) To appoint and remove the chief administrative  
2           officers, and administer programs of training and  
3           development of personnel of the Department. Personnel  
4           assigned by the Department to be responsible for the  
5           custody and control of committed persons or to investigate  
6           the alleged misconduct of committed persons or employees or  
7           alleged violations of a parolee's or releasee's conditions  
8           of parole shall be conservators of the peace for those  
9           purposes, and shall have the full power of peace officers  
10          outside of the facilities of the Department in the  
11          protection, arrest, retaking and reconfining of committed  
12          persons or where the exercise of such power is necessary to  
13          the investigation of such misconduct or violations. This  
14          subsection shall not apply to persons committed to the  
15          Department of Juvenile Justice under the Juvenile Court Act  
16          of 1987 on aftercare release.

17          (j) To cooperate with other departments and agencies  
18          and with local communities for the development of standards  
19          and programs for better correctional services in this  
20          State.

21          (k) To administer all moneys and properties of the  
22          Department.

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

25          (1-5) (Blank).

26          (m) To make all rules and regulations and exercise all

1 powers and duties vested by law in the Department.

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

6 (o) To administer the distribution of funds from the  
7 State Treasury to reimburse counties where State penal  
8 institutions are located for the payment of assistant  
9 state's attorneys' salaries under Section 4-2001 of the  
10 Counties Code.

11 (p) To exchange information with the Department of  
12 Human Services and the Department of Healthcare and Family  
13 Services for the purpose of verifying living arrangements  
14 and for other purposes directly connected with the  
15 administration of this Code and the Illinois Public Aid  
16 Code.

17 (q) To establish a diversion program.

18 The program shall provide a structured environment for  
19 selected technical parole or mandatory supervised release  
20 violators and committed persons who have violated the rules  
21 governing their conduct while in work release. This program  
22 shall not apply to those persons who have committed a new  
23 offense while serving on parole or mandatory supervised  
24 release or while committed to work release.

25 Elements of the program shall include, but shall not be  
26 limited to, the following:



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

4           (2) Participants shall be required to maintain  
5 employment.

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

9           (4) Each participant shall:

10           (A) provide restitution to victims in  
11 accordance with any court order;

12           (B) provide financial support to his  
13 dependents; and

14           (C) make appropriate payments toward any other  
15 court-ordered obligations.

16           (5) Each participant shall complete community  
17 service in addition to employment.

18           (6) Participants shall take part in such  
19 counseling, educational and other programs as the  
20 Department may deem appropriate.

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

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

25           (r) To enter into intergovernmental cooperation  
26 agreements under which persons in the custody of the

1 Department may participate in a county impact  
2 incarceration program established under Section 3-6038 or  
3 3-15003.5 of the Counties Code.

4 (r-5) (Blank).

5 (r-10) To systematically and routinely identify with  
6 respect to each streetgang active within the correctional  
7 system: (1) each active gang; (2) every existing inter-gang  
8 affiliation or alliance; and (3) the current leaders in  
9 each gang. The Department shall promptly segregate leaders  
10 from inmates who belong to their gangs and allied gangs.  
11 "Segregate" means no physical contact and, to the extent  
12 possible under the conditions and space available at the  
13 correctional facility, prohibition of visual and sound  
14 communication. For the purposes of this paragraph (r-10),  
15 "leaders" means persons who:

16 (i) are members of a criminal streetgang;

17 (ii) with respect to other individuals within the  
18 streetgang, occupy a position of organizer,  
19 supervisor, or other position of management or  
20 leadership; and

21 (iii) are actively and personally engaged in  
22 directing, ordering, authorizing, or requesting  
23 commission of criminal acts by others, which are  
24 punishable as a felony, in furtherance of streetgang  
25 related activity both within and outside of the  
26 Department of Corrections.

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

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

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

20 As used in this subdivision (1)(t), "unprivileged  
21 conversation" or "unprivileged communication" means a  
22 conversation or communication that is not protected by any  
23 privilege recognized by law or by decision, rule, or order  
24 of the Illinois Supreme Court.

25 (u) To establish a Women's and Children's Pre-release  
26 Community Supervision Program for the purpose of providing

1 housing and services to eligible female inmates, as  
2 determined by the Department, and their newborn and young  
3 children.

4 (u-5) To issue an order, whenever a person committed to  
5 the Department absconds or absents himself or herself,  
6 without authority to do so, from any facility or program to  
7 which he or she is assigned. The order shall be certified  
8 by the Director, the Supervisor of the Apprehension Unit,  
9 or any person duly designated by the Director, with the  
10 seal of the Department affixed. The order shall be directed  
11 to all sheriffs, coroners, and police officers, or to any  
12 particular person named in the order. Any order issued  
13 pursuant to this subdivision (1) (u-5) shall be sufficient  
14 warrant for the officer or person named in the order to  
15 arrest and deliver the committed person to the proper  
16 correctional officials and shall be executed the same as  
17 criminal process.

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

20 (2) The Department of Corrections shall by January 1, 1998,  
21 consider building and operating a correctional facility within  
22 100 miles of a county of over 2,000,000 inhabitants, especially  
23 a facility designed to house juvenile participants in the  
24 impact incarceration program.

25 (3) When the Department lets bids for contracts for medical  
26 services to be provided to persons committed to Department

1 facilities by a health maintenance organization, medical  
2 service corporation, or other health care provider, the bid may  
3 only be let to a health care provider that has obtained an  
4 irrevocable letter of credit or performance bond issued by a  
5 company whose bonds have an investment grade or higher rating  
6 by a bond rating organization.

7 (3.5) Notwithstanding any other law to the contrary, the  
8 Department shall not reduce the number of Department employees  
9 whose employment is related to the provision of medical or  
10 mental health services lower than the number of Department  
11 employees on January 1, 2016 whose employment is related to the  
12 provision of medical or mental health services. The Department  
13 shall not enter into a contract, modify a current contract, or  
14 process a change order that would have the effect of reducing  
15 the number of Department employees whose employment is related  
16 to the provision of medical or mental health services lower  
17 than the number of Department employees on January 1, 2016.

18 (4) When the Department lets bids for contracts for food or  
19 commissary services to be provided to Department facilities,  
20 the bid may only be let to a food or commissary services  
21 provider that has obtained an irrevocable letter of credit or  
22 performance bond issued by a company whose bonds have an  
23 investment grade or higher rating by a bond rating  
24 organization.

25 (5) On and after the date 6 months after August 16, 2013  
26 (the effective date of Public Act 98-488), as provided in the

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

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.