

SB3050



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB3050

Introduced 1/20/2006, by Sen. John O. Jones

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-7-6

from Ch. 38, par. 1003-7-6

Amends the Unified Code of Corrections. Re-enacts the provisions of Section 3-7-6 of the Code, relating to reimbursement of the Department for the costs of incarceration. This Section was affected by Public Act 88-669, which has been held to be unconstitutional as a violation of the single subject clause of the Illinois Constitution. Includes validation provisions. Effective immediately.

LRB094 18775 EFG 54169 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Findings; purpose; validation.

5 (a) The General Assembly finds and declares that:

6 (1) Public Act 88-669, effective November 29, 1994,
7 contained provisions amending Section 3-7-6 of the Unified
8 Code of Corrections, relating to reimbursement of the
9 Department for the costs of incarceration. Public Act
10 88-669 also contained other provisions.

11 (2) The Illinois Supreme Court declared Public Act
12 88-669 to be unconstitutional as a violation of the single
13 subject clause of the Illinois Constitution in *People v.*
14 *Olender*, Docket No. 98932, opinion filed December 15, 2005.

15 (b) The purpose of this Act is to re-enact the provisions
16 of Section 3-7-6 of the Unified Code of Corrections and to
17 minimize or prevent any problems concerning those provisions
18 that may arise from the unconstitutionality of Public Act
19 88-669. This re-enactment is intended to remove any question as
20 to the validity and content of those provisions; it is not
21 intended to supersede any other Public Act that amends the
22 provisions re-enacted in this Act. The re-enacted material is
23 shown in this Act as existing text (i.e., without underscoring)
24 and includes changes made by subsequent amendments.

25 (c) The re-enactment of Section 3-7-6 of the Unified Code
26 of Corrections by this Act is not intended, and shall not be
27 construed, to impair any legal argument concerning whether
28 those provisions were substantially re-enacted by any other
29 Public Act.

30 (d) All otherwise lawful actions taken before the effective
31 date of this Act in reliance on or pursuant to the provisions
32 re-enacted by this Act, as those provisions were set forth in
33 Public Act 88-669 or as subsequently amended, by any officer,

1 employee, or agency of State government or by any other person
2 or entity, are hereby validated, except to the extent
3 prohibited under the Illinois or United States Constitution.

4 (e) This Act applies, without limitation, to actions
5 pending on or after the effective date of this Act, except to
6 the extent prohibited under the Illinois or United States
7 Constitution.

8 Section 5. The Unified Code of Corrections is amended by
9 re-enacting Section 3-7-6 as follows:

10 (730 ILCS 5/3-7-6) (from Ch. 38, par. 1003-7-6)

11 Sec. 3-7-6. Reimbursement for expenses.

12 (a) Responsibility of committed persons. For the purposes
13 of this Section, "committed persons" mean those persons who
14 through judicial determination have been placed in the custody
15 of the Department on the basis of a conviction as an adult.
16 Committed persons shall be responsible to reimburse the
17 Department for the expenses incurred by their incarceration at
18 a rate to be determined by the Department in accordance with
19 this Section.

20 (1) Committed persons shall fully cooperate with the
21 Department by providing complete financial information for
22 the purposes under this Section.

23 (2) The failure of a committed person to fully
24 cooperate as provided for in clauses (3) and (4) of
25 subsection (a-5) shall be considered for purposes of a
26 parole determination. Any committed person who willfully
27 refuses to cooperate with the obligations set forth in this
28 Section may be subject to the loss of good conduct credit
29 towards his or her sentence of up to 180 days.

30 (a-5) Assets information form.

31 (1) The Department shall develop a form, which shall be
32 used by the Department to obtain information from all
33 committed persons regarding assets of the persons.

34 (2) In order to enable the Department to determine the

1 financial status of the committed person, the form shall
2 provide for obtaining the age and marital status of a
3 committed person, the number and ages of children of the
4 person, the number and ages of other dependents, the type
5 and value of real estate, the type and value of personal
6 property, cash and bank accounts, the location of any lock
7 boxes, the type and value of investments, pensions and
8 annuities and any other personalty of significant cash
9 value, including but not limited to jewelry, art work and
10 collectables, and all medical or dental insurance policies
11 covering the committed person. The form may also provide
12 for other information deemed pertinent by the Department in
13 the investigation of a committed person's assets.

14 (3) Upon being developed, the form shall be submitted
15 to each committed person as of the date the form is
16 developed and to every committed person who thereafter is
17 sentenced to imprisonment under the jurisdiction of the
18 Department. The form may be resubmitted to a committed
19 person by the Department for purpose of obtaining current
20 information regarding the assets of the person.

21 (4) Every committed person shall complete the form or
22 provide for completion of the form and the committed person
23 shall swear under oath or affirm that to the best of his or
24 her knowledge the information provided is complete and
25 accurate.

26 (b) Expenses. The rate at which sums to be charged for the
27 expenses incurred by a committed person for his or her
28 confinement shall be computed by the Department as the average
29 per capita cost per day for all inmates of that institution or
30 facility for that fiscal year. The average per capita cost per
31 day shall be computed by the Department based on the average
32 per capita cost per day for the operation of that institution
33 or facility for the fiscal year immediately preceding the
34 period of incarceration for which the rate is being calculated.
35 The Department shall establish rules and regulations providing
36 for the computation of the above costs, and shall determine the

1 average per capita cost per day for each of its institutions or
2 facilities for each fiscal year. The Department shall have the
3 power to modify its rules and regulations, so as to provide for
4 the most accurate and most current average per capita cost per
5 day computation. Where the committed person is placed in a
6 facility outside the Department, the Department may pay the
7 actual cost of services in that facility, and may collect
8 reimbursement for the entire amount paid from the committed
9 person receiving those services.

10 (c) Records. The records of the Department, including, but
11 not limited to, those relating to: the average per capita cost
12 per day for a particular institution or facility for a
13 particular year, and the calculation of the average per capita
14 cost per day; the average daily population of a particular
15 Department correctional institution or facility for a
16 particular year; the specific placement of a particular
17 committed person in various Department correctional
18 institutions or facilities for various periods of time; and the
19 record of transactions of a particular committed person's trust
20 account under Section 3-4-3 of this Act; may be proved in any
21 legal proceeding, by a reproduced copy thereof or by a computer
22 printout of Department records, under the certificate of the
23 Director. If reproduced copies are used, the Director must
24 certify that those are true and exact copies of the records on
25 file with the Department. If computer printouts of records of
26 the Department are offered as proof, the Director must certify
27 that those computer printouts are true and exact
28 representations of records properly entered into standard
29 electronic computing equipment, in the regular course of the
30 Department's business, at or reasonably near the time of the
31 occurrence of the facts recorded, from trustworthy and reliable
32 information. The reproduced copy or computer printout shall,
33 without further proof, be admitted into evidence in any legal
34 proceeding, and shall be prima facie correct and prima facie
35 evidence of the accuracy of the information contained therein.

36 (d) Authority. The Director, or the Director's designee,

1 may, when he or she knows or reasonably believes that a
2 committed person, or the estate of that person, has assets
3 which may be used to satisfy all or part of a judgment rendered
4 under this Act, or when he or she knows or reasonably believes
5 that a committed person is engaged in gang-related activity and
6 has a substantial sum of money or other assets, provide for the
7 forwarding to the Attorney General of a report on the committed
8 person and that report shall contain a completed form under
9 subsection (a-5) together with all other information available
10 concerning the assets of the committed person and an estimate
11 of the total expenses for that committed person, and authorize
12 the Attorney General to institute proceedings to require the
13 persons, or the estates of the persons, to reimburse the
14 Department for the expenses incurred by their incarceration.
15 The Attorney General, upon authorization of the Director, or
16 the Director's designee, shall institute actions on behalf of
17 the Department and pursue claims on the Department's behalf in
18 probate and bankruptcy proceedings, to recover from committed
19 persons the expenses incurred by their confinement. For
20 purposes of this subsection (d), "gang-related" activity has
21 the meaning ascribed to it in Section 10 of the Illinois
22 Streetgang Terrorism Omnibus Prevention Act.

23 (e) Scope and limitations.

24 (1) No action under this Section shall be initiated
25 more than 2 years after the release or death of the
26 committed person in question.

27 (2) The death of a convicted person, by execution or
28 otherwise, while committed to a Department correctional
29 institution or facility shall not act as a bar to any
30 action or proceeding under this Section.

31 (3) The assets of a committed person, for the purposes
32 of this Section, shall include any property, tangible or
33 intangible, real or personal, belonging to or due to a
34 committed or formerly committed person including income or
35 payments to the person from social security, worker's
36 compensation, veteran's compensation, pension benefits, or

1 from any other source whatsoever and any and all assets and
2 property of whatever character held in the name of the
3 person, held for the benefit of the person, or payable or
4 otherwise deliverable to the person. Any trust, or portion
5 of a trust, of which a convicted person is a beneficiary,
6 shall be construed as an asset of the person, to the extent
7 that benefits thereunder are required to be paid to the
8 person, or shall in fact be paid to the person. At the time
9 of a legal proceeding by the Attorney General under this
10 Section, if it appears that the committed person has any
11 assets which ought to be subjected to the claim of the
12 Department under this Section, the court may issue an order
13 requiring any person, corporation, or other legal entity
14 possessed or having custody of those assets to appropriate
15 any of the assets or a portion thereof toward reimbursing
16 the Department as provided for under this Section. No
17 provision of this Section shall be construed in violation
18 of any State or federal limitation on the collection of
19 money judgments.

20 (4) Nothing in this Section shall preclude the
21 Department from applying federal benefits that are
22 specifically provided for the care and treatment of a
23 committed person toward the cost of care provided by a
24 State facility or private agency.

25 (Source: P.A. 92-564, eff. 1-1-03.)

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.