



## 99TH GENERAL ASSEMBLY

### State of Illinois

### 2015 and 2016

### HB2726

by Rep. John D. Anthony

#### SYNOPSIS AS INTRODUCED:

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

Amends the Unified Code of Corrections. Requires the Department of Corrections (IDOC) to enter into a Memorandum of Understanding (MOU) with U.S. Immigration and Customs Enforcement (ICE) which authorizes the U.S. Department of Homeland Security to enter into written agreements with a state to remove an alien in the custody of that state. The purpose of the MOU is to set forth terms by which ICE and IDOC will cooperate in a Rapid Removal of Eligible Parolees Accepted for Transfer ("Rapid REPAT") program, which allows for early conditional release for deportation of removable custodial aliens to their home countries. Requires the Memorandum of Understanding to provide that a person may take part in the program only if a final order of deportation has been issued against the person, if prior to the issuance of this order: (A) the person has been advised of and given an opportunity to exercise his or her rights under federal immigration law to a hearing before an immigration judge to contest his or her removal, including the right to seek and consult with legal counsel and to be represented by counsel at the hearing, to present any applicable defense to a removal proceeding or claim for relief from removal, and to seek review of an adverse decision; (B) the person has been informed of available legal referral services and of law firms and organizations that provide free or low-cost legal assistance; and (C) the information has been provided verbally and in writing in English and in the person's native language. Provides the Prisoner Review Board shall hear by at least one member and, through a panel of at least 3 members, decide all requests for release of prisoners subject to detainers filed by ICE.

LRB099 04323 RLC 24350 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 3-2-2, 3-3-2, 3-3-3, and 3-3-8 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 (4) When the Department lets bids for contracts for food or  
8 commissary services to be provided to Department facilities,  
9 the bid may only be let to a food or commissary services  
10 provider that has obtained an irrevocable letter of credit or  
11 performance bond issued by a company whose bonds have an  
12 investment grade or higher rating by a bond rating  
13 organization.

14 (5) On and after the date 6 months after August 16, 2013  
15 (the effective date of Public Act 98-488), as provided in the  
16 Executive Order 1 (2012) Implementation Act, all of the powers,  
17 duties, rights, and responsibilities related to State  
18 healthcare purchasing under this Code that were transferred  
19 from the Department of Corrections to the Department of  
20 Healthcare and Family Services by Executive Order 3 (2005) are  
21 transferred back to the Department of Corrections; however,  
22 powers, duties, rights, and responsibilities related to State  
23 healthcare purchasing under this Code that were exercised by  
24 the Department of Corrections before the effective date of  
25 Executive Order 3 (2005) but that pertain to individuals  
26 resident in facilities operated by the Department of Juvenile

1 Justice are transferred to the Department of Juvenile Justice.

2 (6) The Illinois Department of Corrections (IDOC) shall  
3 enter into a Memorandum of Understanding (MOU) with U.S.  
4 Immigration and Customs Enforcement (ICE), under Section  
5 241(a) of the Immigration and Nationality Act, codified at 8  
6 U.S.C. Section 1231(a), as amended by the Homeland Security Act  
7 of 2002, Public Law No. 107-296 as codified at 8 U.S.C.  
8 Sections 131-134 which authorizes the Secretary of the  
9 Department of Homeland Security to enter into written  
10 agreements with a state or any political subdivision of a state  
11 to remove certain non-United States citizens in the custody of  
12 that state. The purpose of the MOU is to set forth terms by  
13 which ICE and IDOC will cooperate in a Rapid Removal of  
14 Eligible Parolees Accepted for Transfer ("Rapid REPAT")  
15 program, which allows for early conditional release for  
16 deportation of these noncitizens to their home countries. The  
17 MOU shall provide that a person may take part in this program  
18 only if a final order of deportation has been issued against  
19 that person, if prior to the issuance of the order:

20 (A) the person has been advised of and given a full and  
21 fair opportunity to exercise his or her rights under  
22 federal immigration law to a hearing before an immigration  
23 judge to contest his or her removal from the United States,  
24 including but not limited to the right to seek and consult  
25 with legal counsel and to be represented by counsel at the  
26 hearing, to present evidence in support of any applicable

1 defense to a removal proceeding or claim for relief from  
2 removal, and to seek review of an adverse decision by the  
3 judge;

4 (B) the person has been informed of available legal  
5 referral services and of law firms and not-for-profit  
6 organizations that provide free or low-cost legal  
7 assistance; and

8 (C) the information described in subparagraphs (A) and  
9 (B) has been provided verbally and in writing in English  
10 and in the person's native language.

11 (Source: P.A. 97-697, eff. 6-22-12; 97-800, eff. 7-13-12;  
12 97-802, eff. 7-13-12; 98-463, eff. 8-16-13; 98-488, eff.  
13 8-16-13; 98-558, eff. 1-1-14; 98-756, eff. 7-16-14.)

14 (730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

15 Sec. 3-3-2. Powers and Duties.

16 (a) The Parole and Pardon Board is abolished and the term  
17 "Parole and Pardon Board" as used in any law of Illinois, shall  
18 read "Prisoner Review Board." After the effective date of this  
19 amendatory Act of 1977, the Prisoner Review Board shall provide  
20 by rule for the orderly transition of all files, records, and  
21 documents of the Parole and Pardon Board and for such other  
22 steps as may be necessary to effect an orderly transition and  
23 shall:

24 (1) hear by at least one member and through a panel of  
25 at least 3 members decide, cases of prisoners who were



1 sentenced under the law in effect prior to the effective  
2 date of this amendatory Act of 1977, and who are eligible  
3 for parole;

4 (2) hear by at least one member and through a panel of  
5 at least 3 members decide, the conditions of parole and the  
6 time of discharge from parole, impose sanctions for  
7 violations of parole, and revoke parole for those sentenced  
8 under the law in effect prior to this amendatory Act of  
9 1977; provided that the decision to parole and the  
10 conditions of parole for all prisoners who were sentenced  
11 for first degree murder or who received a minimum sentence  
12 of 20 years or more under the law in effect prior to  
13 February 1, 1978 shall be determined by a majority vote of  
14 the Prisoner Review Board. One representative supporting  
15 parole and one representative opposing parole will be  
16 allowed to speak. Their comments shall be limited to making  
17 corrections and filling in omissions to the Board's  
18 presentation and discussion;

19 (3) hear by at least one member and through a panel of  
20 at least 3 members decide, the conditions of mandatory  
21 supervised release and the time of discharge from mandatory  
22 supervised release, impose sanctions for violations of  
23 mandatory supervised release, and revoke mandatory  
24 supervised release for those sentenced under the law in  
25 effect after the effective date of this amendatory Act of  
26 1977;

1           (3.5) hear by at least one member and through a panel  
2 of at least 3 members decide, the conditions of mandatory  
3 supervised release and the time of discharge from mandatory  
4 supervised release, to impose sanctions for violations of  
5 mandatory supervised release and revoke mandatory  
6 supervised release for those serving extended supervised  
7 release terms pursuant to paragraph (4) of subsection (d)  
8 of Section 5-8-1;

9           (3.6) hear by at least one member and through a panel  
10 of at least 3 members decide, the time of aftercare  
11 release, the conditions of aftercare release and the time  
12 of discharge from aftercare release, impose sanctions for  
13 violations of aftercare release, and revoke aftercare  
14 release for those adjudicated delinquent under the  
15 Juvenile Court Act of 1987;

16           (4) hear by at least one member and through a panel of  
17 at least 3 members, decide cases brought by the Department  
18 of Corrections against a prisoner in the custody of the  
19 Department for alleged violation of Department rules with  
20 respect to sentence credits under Section 3-6-3 of this  
21 Code in which the Department seeks to revoke sentence  
22 credits, if the amount of time at issue exceeds 30 days or  
23 when, during any 12 month period, the cumulative amount of  
24 credit revoked exceeds 30 days except where the infraction  
25 is committed or discovered within 60 days of scheduled  
26 release. In such cases, the Department of Corrections may

1           revoke up to 30 days of sentence credit. The Board may  
2           subsequently approve the revocation of additional sentence  
3           credit, if the Department seeks to revoke sentence credit  
4           in excess of thirty days. However, the Board shall not be  
5           empowered to review the Department's decision with respect  
6           to the loss of 30 days of sentence credit for any prisoner  
7           or to increase any penalty beyond the length requested by  
8           the Department;

9           (5) hear by at least one member and through a panel of  
10          at least 3 members decide, the release dates for certain  
11          prisoners sentenced under the law in existence prior to the  
12          effective date of this amendatory Act of 1977, in  
13          accordance with Section 3-3-2.1 of this Code;

14          (6) hear by at least one member and through a panel of  
15          at least 3 members decide, all requests for pardon,  
16          reprieve or commutation, and make confidential  
17          recommendations to the Governor;

18          (7) comply with the requirements of the Open Parole  
19          Hearings Act;

20          (8) hear by at least one member and, through a panel of  
21          at least 3 members, decide cases brought by the Department  
22          of Corrections against a prisoner in the custody of the  
23          Department for court dismissal of a frivolous lawsuit  
24          pursuant to Section 3-6-3(d) of this Code in which the  
25          Department seeks to revoke up to 180 days of sentence  
26          credit, and if the prisoner has not accumulated 180 days of

1 sentence credit at the time of the dismissal, then all  
2 sentence credit accumulated by the prisoner shall be  
3 revoked;

4 (9) hear by at least 3 members, and, through a panel of  
5 at least 3 members, decide whether to grant certificates of  
6 relief from disabilities or certificates of good conduct as  
7 provided in Article 5.5 of Chapter V;

8 (10) upon a petition by a person who has been convicted  
9 of a Class 3 or Class 4 felony and who meets the  
10 requirements of this paragraph, hear by at least 3 members  
11 and, with the unanimous vote of a panel of 3 members, issue  
12 a certificate of eligibility for sealing recommending that  
13 the court order the sealing of all official records of the  
14 arresting authority, the circuit court clerk, and the  
15 Department of State Police concerning the arrest and  
16 conviction for the Class 3 or 4 felony. A person may not  
17 apply to the Board for a certificate of eligibility for  
18 sealing:

19 (A) until 5 years have elapsed since the expiration  
20 of his or her sentence;

21 (B) until 5 years have elapsed since any arrests or  
22 detentions by a law enforcement officer for an alleged  
23 violation of law, other than a petty offense, traffic  
24 offense, conservation offense, or local ordinance  
25 offense;

26 (C) if convicted of a violation of the Cannabis

1 Control Act, Illinois Controlled Substances Act, the  
2 Methamphetamine Control and Community Protection Act,  
3 the Methamphetamine Precursor Control Act, or the  
4 Methamphetamine Precursor Tracking Act unless the  
5 petitioner has completed a drug abuse program for the  
6 offense on which sealing is sought and provides proof  
7 that he or she has completed the program successfully;

8 (D) if convicted of:

9 (i) a sex offense described in Article 11 or  
10 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of  
11 the Criminal Code of 1961 or the Criminal Code of  
12 2012;

13 (ii) aggravated assault;

14 (iii) aggravated battery;

15 (iv) domestic battery;

16 (v) aggravated domestic battery;

17 (vi) violation of an order of protection;

18 (vii) an offense under the Criminal Code of  
19 1961 or the Criminal Code of 2012 involving a  
20 firearm;

21 (viii) driving while under the influence of  
22 alcohol, other drug or drugs, intoxicating  
23 compound or compounds or any combination thereof;

24 (ix) aggravated driving while under the  
25 influence of alcohol, other drug or drugs,  
26 intoxicating compound or compounds or any

1 combination thereof; or

2 (x) any crime defined as a crime of violence  
3 under Section 2 of the Crime Victims Compensation  
4 Act.

5 If a person has applied to the Board for a certificate  
6 of eligibility for sealing and the Board denies the  
7 certificate, the person must wait at least 4 years before  
8 filing again or filing for pardon from the Governor unless  
9 the Chairman of the Prisoner Review Board grants a waiver.

10 The decision to issue or refrain from issuing a  
11 certificate of eligibility for sealing shall be at the  
12 Board's sole discretion, and shall not give rise to any  
13 cause of action against either the Board or its members.

14 The Board may only authorize the sealing of Class 3 and  
15 4 felony convictions of the petitioner from one information  
16 or indictment under this paragraph (10). A petitioner may  
17 only receive one certificate of eligibility for sealing  
18 under this provision for life; ~~and~~

19 (11) upon a petition by a person who after having been  
20 convicted of a Class 3 or Class 4 felony thereafter served  
21 in the United States Armed Forces or National Guard of this  
22 or any other state and had received an honorable discharge  
23 from the United States Armed Forces or National Guard or  
24 who at the time of filing the petition is enlisted in the  
25 United States Armed Forces or National Guard of this or any  
26 other state and served one tour of duty and who meets the

1 requirements of this paragraph, hear by at least 3 members  
2 and, with the unanimous vote of a panel of 3 members, issue  
3 a certificate of eligibility for expungement recommending  
4 that the court order the expungement of all official  
5 records of the arresting authority, the circuit court  
6 clerk, and the Department of State Police concerning the  
7 arrest and conviction for the Class 3 or 4 felony. A person  
8 may not apply to the Board for a certificate of eligibility  
9 for expungement:

10 (A) if convicted of:

11 (i) a sex offense described in Article 11 or  
12 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of  
13 the Criminal Code of 1961 or Criminal Code of 2012;

14 (ii) an offense under the Criminal Code of 1961  
15 or Criminal Code of 2012 involving a firearm; or

16 (iii) a crime of violence as defined in Section  
17 2 of the Crime Victims Compensation Act; or

18 (B) if the person has not served in the United  
19 States Armed Forces or National Guard of this or any  
20 other state or has not received an honorable discharge  
21 from the United States Armed Forces or National Guard  
22 of this or any other state or who at the time of the  
23 filing of the petition is serving in the United States  
24 Armed Forces or National Guard of this or any other  
25 state and has not completed one tour of duty.

26 If a person has applied to the Board for a certificate

1 of eligibility for expungement and the Board denies the  
2 certificate, the person must wait at least 4 years before  
3 filing again or filing for a pardon with authorization for  
4 expungement from the Governor unless the Governor or  
5 Chairman of the Prisoner Review Board grants a waiver; ~~and~~.

6 (12) hear by at least one member and, through a panel  
7 of at least 3 members, decide all requests for early  
8 conditional release under the Rapid REPAT program  
9 described in subsection (6) of Section 3-2-2 of this Code.

10 (a-5) The Prisoner Review Board, with the cooperation of  
11 and in coordination with the Department of Corrections and the  
12 Department of Central Management Services, shall implement a  
13 pilot project in 3 correctional institutions providing for the  
14 conduct of hearings under paragraphs (1) and (4) of subsection  
15 (a) of this Section through interactive video conferences. The  
16 project shall be implemented within 6 months after the  
17 effective date of this amendatory Act of 1996. Within 6 months  
18 after the implementation of the pilot project, the Prisoner  
19 Review Board, with the cooperation of and in coordination with  
20 the Department of Corrections and the Department of Central  
21 Management Services, shall report to the Governor and the  
22 General Assembly regarding the use, costs, effectiveness, and  
23 future viability of interactive video conferences for Prisoner  
24 Review Board hearings.

25 (b) Upon recommendation of the Department the Board may  
26 restore sentence credit previously revoked.



1           (c) The Board shall cooperate with the Department in  
2 promoting an effective system of parole, aftercare release, and  
3 mandatory supervised release.

4           (d) The Board shall promulgate rules for the conduct of its  
5 work, and the Chairman shall file a copy of such rules and any  
6 amendments thereto with the Director and with the Secretary of  
7 State.

8           (e) The Board shall keep records of all of its official  
9 actions and shall make them accessible in accordance with law  
10 and the rules of the Board.

11           (f) The Board or one who has allegedly violated the  
12 conditions of his or her parole, aftercare release, or  
13 mandatory supervised release may require by subpoena the  
14 attendance and testimony of witnesses and the production of  
15 documentary evidence relating to any matter under  
16 investigation or hearing. The Chairman of the Board may sign  
17 subpoenas which shall be served by any agent or public official  
18 authorized by the Chairman of the Board, or by any person  
19 lawfully authorized to serve a subpoena under the laws of the  
20 State of Illinois. The attendance of witnesses, and the  
21 production of documentary evidence, may be required from any  
22 place in the State to a hearing location in the State before  
23 the Chairman of the Board or his or her designated agent or  
24 agents or any duly constituted Committee or Subcommittee of the  
25 Board. Witnesses so summoned shall be paid the same fees and  
26 mileage that are paid witnesses in the circuit courts of the

1 State, and witnesses whose depositions are taken and the  
2 persons taking those depositions are each entitled to the same  
3 fees as are paid for like services in actions in the circuit  
4 courts of the State. Fees and mileage shall be vouchered for  
5 payment when the witness is discharged from further attendance.

6 In case of disobedience to a subpoena, the Board may  
7 petition any circuit court of the State for an order requiring  
8 the attendance and testimony of witnesses or the production of  
9 documentary evidence or both. A copy of such petition shall be  
10 served by personal service or by registered or certified mail  
11 upon the person who has failed to obey the subpoena, and such  
12 person shall be advised in writing that a hearing upon the  
13 petition will be requested in a court room to be designated in  
14 such notice before the judge hearing motions or extraordinary  
15 remedies at a specified time, on a specified date, not less  
16 than 10 nor more than 15 days after the deposit of the copy of  
17 the written notice and petition in the U.S. mails addressed to  
18 the person at his last known address or after the personal  
19 service of the copy of the notice and petition upon such  
20 person. The court upon the filing of such a petition, may order  
21 the person refusing to obey the subpoena to appear at an  
22 investigation or hearing, or to there produce documentary  
23 evidence, if so ordered, or to give evidence relative to the  
24 subject matter of that investigation or hearing. Any failure to  
25 obey such order of the circuit court may be punished by that  
26 court as a contempt of court.

1           Each member of the Board and any hearing officer designated  
2 by the Board shall have the power to administer oaths and to  
3 take the testimony of persons under oath.

4           (g) Except under subsection (a) of this Section, a majority  
5 of the members then appointed to the Prisoner Review Board  
6 shall constitute a quorum for the transaction of all business  
7 of the Board.

8           (h) The Prisoner Review Board shall annually transmit to  
9 the Director a detailed report of its work for the preceding  
10 calendar year. The annual report shall also be transmitted to  
11 the Governor for submission to the Legislature.

12           (Source: P.A. 97-697, eff. 6-22-12; 97-1120, eff. 1-1-13;  
13 97-1150, eff. 1-25-13; 98-399, eff. 8-16-13; 98-558, eff.  
14 1-1-14; 98-756, eff. 7-16-14.)

15           (730 ILCS 5/3-3-3) (from Ch. 38, par. 1003-3-3)

16           Sec. 3-3-3. Eligibility for Parole or Release.

17           (a) Except for those offenders who accept the fixed release  
18 date established by the Prisoner Review Board under Section  
19 3-3-2.1, every person serving a term of imprisonment under the  
20 law in effect prior to the effective date of this amendatory  
21 Act of 1977 shall be eligible for parole when he or she has  
22 served:

23           (1) the minimum term of an indeterminate sentence less  
24 time credit for good behavior, or 20 years less time credit  
25 for good behavior, whichever is less; or

1           (2) 20 years of a life sentence less time credit for  
2           good behavior; or

3           (3) 20 years or one-third of a determinate sentence,  
4           whichever is less, less time credit for good behavior.

5           (b) No person sentenced under this amendatory Act of 1977  
6           or who accepts a release date under Section 3-3-2.1 shall be  
7           eligible for parole.

8           (c) Except for those sentenced to a term of natural life  
9           imprisonment, every person sentenced to imprisonment under  
10          this amendatory Act of 1977 or given a release date under  
11          Section 3-3-2.1 of this Act shall serve the full term of a  
12          determinate sentence less time credit for good behavior and  
13          shall then be released under the mandatory supervised release  
14          provisions of paragraph (d) of Section 5-8-1 of this Code.

15          (d) No person serving a term of natural life imprisonment  
16          may be paroled or released except through executive clemency.

17          (e) Every person committed to the Department of Juvenile  
18          Justice under Section 5-10 of the Juvenile Court Act or Section  
19          5-750 of the Juvenile Court Act of 1987 or Section 5-8-6 of  
20          this Code and confined in the State correctional institutions  
21          or facilities if such juvenile has not been tried as an adult  
22          shall be eligible for aftercare release without regard to the  
23          length of time the person has been confined or whether the  
24          person has served any minimum term imposed. However, if a  
25          juvenile has been tried as an adult he or she shall only be  
26          eligible for parole or mandatory supervised release as an adult

1 under this Section.

2 (f) Notwithstanding any other provision of law, any person  
3 committed to the Department of Corrections who is not a citizen  
4 of the United States who meets the following criteria may be  
5 released by the Prisoner Review Board to the custody of the  
6 United States Department of Homeland Security, Immigration and  
7 Customs Enforcement under the Rapid REPAT program described in  
8 subsection (6) of Section 3-2-2 of this Code:

9 (1) the person has requested this release voluntarily,  
10 but only after:

11 (A) the Department of Corrections has identified  
12 the person as potentially eligible for the Rapid REPAT  
13 program based on the person having fulfilled the  
14 requirements in paragraphs (2), (3), and (4) of this  
15 subsection (f);

16 (B) subsequent to the identification described in  
17 subparagraph (A) of this paragraph (1), the Department  
18 of Corrections has fully informed the person, both  
19 verbally and in writing in English and in the person's  
20 native language, about the Rapid REPAT program,  
21 including the program requirements for transfer to  
22 Immigration and Customs Enforcement and removal from  
23 the United States and the consequences of returning to  
24 the United States illegally subsequent to removal; and

25 (C) the Department of Corrections has provided the  
26 person with a written list of names and phone numbers

1           of legal resources with which the person may seek legal  
2           consultation, including legal referral services, law  
3           firms, and not-for-profit organizations that provide  
4           free or low-cost legal assistance;

5           (2) a final order of deportation has been issued  
6           against the person, provided that prior to the issuance of  
7           the order, the person has been provided the information  
8           described in paragraphs (A), (B), and (C) of subsection (6)  
9           of Section 3-2-2 of this Code, and provided further that  
10           Immigration and Customs Enforcement has notified the  
11           Department of Corrections that the person has exhausted or  
12           voluntarily waived in writing any further rights to seek  
13           review of this order;

14           (3) the person has less than one year remaining on his  
15           or her sentence of incarceration with the Department of  
16           Corrections; and

17           (4) the person is not serving a sentence for a forcible  
18           felony, as defined in the Criminal Code of 2012; for any  
19           offense "directed against the person", as identified in  
20           Part B of Title III of the Criminal Code of 2012; for any  
21           offense "affecting governmental functions", as identified  
22           in Part E of Title III of the Criminal Code of 2012; for  
23           any "aggravated" offense, as identified in Part F of Title  
24           III of the Criminal Code of 2012; or for an offense falling  
25           into a Class of felony other than Class 3 or 4, as set out  
26           in the Criminal Code of 2012 and the Unified Code of

1           Corrections.

2           The Board may condition the early conditional release of a  
3 person under this subsection (f) on receipt of assurance from  
4 Immigration and Customs Enforcement that the order of  
5 deportation will be executed promptly and that a person  
6 released under this subsection (f) will not be released from  
7 the custody of Immigration and Customs Enforcement, unless the  
8 release is a result of deportation, without notice to the Board  
9 and an opportunity for issuance of a parole violation warrant  
10 for the return to custody of the person.

11           If a person released under this subsection (f) returns  
12 illegally to the United States, on notification from any  
13 federal, state, or local law enforcement authority that the  
14 person is in custody, the Board shall revoke his or her early  
15 conditional release. Thereafter, the person shall not be  
16 eligible for release without first having served the full  
17 remainder of his or her term of incarceration. In this event,  
18 though, the time spent in the custody of Immigration and  
19 Customs Enforcement shall be credited against the remainder of  
20 the term of incarceration.

21           (Source: P.A. 98-558, eff. 1-1-14.)

22           (730 ILCS 5/3-3-8) (from Ch. 38, par. 1003-3-8)

23           Sec. 3-3-8. Length of parole, aftercare release, and  
24 mandatory supervised release; discharge.)

25           (a) The length of parole for a person sentenced under the

1 law in effect prior to the effective date of this amendatory  
2 Act of 1977 and the length of mandatory supervised release for  
3 those sentenced under the law in effect on and after such  
4 effective date shall be as set out in Section 5-8-1 unless  
5 sooner terminated under paragraph (b) of this Section. The  
6 aftercare release period of a juvenile committed to the  
7 Department under the Juvenile Court Act or the Juvenile Court  
8 Act of 1987 shall extend until he or she is 21 years of age  
9 unless sooner terminated under paragraph (b) of this Section.

10 (b) The Prisoner Review Board may enter an order releasing  
11 and discharging one from parole, aftercare release, or  
12 mandatory supervised release, and his or her commitment to the  
13 Department, when it determines that he or she is likely to  
14 remain at liberty without committing another offense.

15 (b-1) Provided that the subject is in compliance with the  
16 terms and conditions of his or her parole, aftercare release,  
17 or mandatory supervised release, the Prisoner Review Board may  
18 reduce the period of a parolee or releasee's parole, aftercare  
19 release, or mandatory supervised release by 90 days upon the  
20 parolee or releasee receiving a high school diploma or upon  
21 passage of high school equivalency testing during the period of  
22 his or her parole, aftercare release, or mandatory supervised  
23 release. This reduction in the period of a subject's term of  
24 parole, aftercare release, or mandatory supervised release  
25 shall be available only to subjects who have not previously  
26 earned a high school diploma or who have not previously passed



1 high school equivalency testing.

2 (b-2) The Prisoner Review Board may enter an order granting  
3 early conditional release under the Rapid REPAT program  
4 described in subsection (6) of Section 3-2-2 of this Code in  
5 accordance with subsection (f) of Section 3-3-3 of this Code.

6 (c) The order of discharge shall become effective upon  
7 entry of the order of the Board. The Board shall notify the  
8 clerk of the committing court of the order. Upon receipt of  
9 such copy, the clerk shall make an entry on the record judgment  
10 that the sentence or commitment has been satisfied pursuant to  
11 the order.

12 (d) Rights of the person discharged under this Section  
13 shall be restored under Section 5-5-5. This Section is subject  
14 to Section 5-750 of the Juvenile Court Act of 1987.

15 (Source: P.A. 97-531, eff. 1-1-12; 98-558, eff. 1-1-14; 98-718,  
16 eff. 1-1-15.)