



Rep. Rita Mayfield

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LRB104 03575 RLC 22443 a

1 AMENDMENT TO HOUSE BILL 44

2 AMENDMENT NO. _____. Amend House Bill 44 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Community-Based Corrections Act.

6 Section 5. Purpose. The purpose of this Act is to create a
7 transformative post-conviction model that reduces reliance on
8 traditional incarceration for emerging adults by fostering
9 partnerships between the Department of Corrections, the
10 Department of Human Services, and nonprofit, community-based
11 providers to implement restorative justice practices,
12 workforce training, and mental health support. This Act
13 recognizes that young adults aged 18 through 25 are more
14 likely to be justice involved due to poverty, instability,
15 trauma, and a lack of social and emotional services and
16 support. Young adults who receive holistic, developmentally

1 appropriate supports and services in a community setting
2 continue educational pursuits, successfully enter the
3 workforce, and are less likely to reoffend, thus increasing
4 the welfare of the young adult and the community, rather than
5 those who are incarcerated. This Act recognizes that the
6 qualities that distinguish juveniles from adults do not
7 disappear when an individual turns 18. They remain vulnerable
8 to negative influences and outside peer pressures, including
9 from their family and peers, and they have limited control
10 over their own environment and lack the ability to extricate
11 themselves from horrific, crime-producing settings. Because
12 the characters of emerging adults are still being formed,
13 their traits are less fixed and their actions are less likely
14 to be evidence of a lack of rehabilitative potential.
15 Accordingly, emerging adults are worthy of special care,
16 investment, and consideration so as to prevent long-term
17 involvement in the criminal justice system and the
18 psychological damage caused by carceral settings. This policy
19 is grounded in balanced restorative justice values and
20 practices, that seek to improve community safety by
21 considering the welfare of the emerging adult with a focus on
22 connecting emerging adults to supports that address underlying
23 root causes of behavior instead of punitive measures.

24 Section 10. Definitions. In this Act:

25 "Aftercare plan" means a re-entry plan that details

1 employment or apprenticeship verification of enrollment in a
2 2-year or 4-year educational institution, counseling or
3 treatment plans and providers, residential placement, and any
4 other services as appropriate.

5 "Approved" means having obtained written approval by the
6 Department of Human Services to provide services as an
7 alternative to traditional incarceration as a community-based
8 provider, with annual monitoring and evaluation by the
9 Department of Human Services for continued approval to operate
10 as such.

11 "Community-based provider" means a nonprofit organization
12 that provides transitional housing and on-site facilitation of
13 community-based services including employment and vocational
14 training, financial counseling, education, social and mental
15 health services, substance abuse counseling, individual and
16 family counseling, restorative justice programming, assistance
17 in locating permanent residential placement and obtaining
18 suitable employment or educational pursuits upon release, and
19 any other services as appropriate to emerging adults.

20 "Emerging adult" means an individual who is at least 18
21 years of age but under 26 years of age, at the time of the
22 commission of the offense, who has been convicted of a crime
23 that is non-probationable and is eligible for confinement in a
24 penal institution.

25 "Individualized service plan" means the written details of
26 the developmentally appropriate supports, activities, and

1 resources required for the individual to achieve personal
2 goals, which could include workforce development, mental
3 health counseling, substance abuse counseling, educational
4 classes, financial literacy classes, and restorative justice
5 programming that a person will receive during the term of the
6 person's stay.

7 "Initial assessment" means a detailed evaluation of a
8 person's behavioral health used to diagnose conditions,
9 identify strengths and needs, and develop treatment plans such
10 as provided through the use of standardized assessment tools
11 such as the Illinois Medicaid Comprehensive Assessment of
12 Needs and Strengths.

13 "Mitigation report" means a report that outlines the
14 social and educational history of a person, which also
15 includes employment history, mental health diagnosis and
16 individualized service plans, history of or current substance
17 use and treatment, criminal history, and character references.

18 "Penal institution" has the meaning ascribed to the term
19 in Section 2-14 of the Criminal Code of 2012.

20 "Restorative justice programming" means practices or
21 programming designed to contribute to the emotional
22 development of a person and foster meaningful connections to
23 the community.

24 "Transitional housing" means single occupancy housing in a
25 facility not otherwise open to and accessible by the public
26 that is equipped with video monitoring, residential managers,

1 24 hour on-site staffing and monitoring, visitation
2 restrictions, and a curfew; and that provides residents with
3 on-site meals, laundry services, basic living necessities
4 including personal care items, and health and wellness
5 facilities and services.

6 Section 15. Establishment of community-based corrections.

7 (a) The Department of Corrections shall establish a
8 program that funds community-based nonprofit providers to
9 serve emerging adults as an alternative to traditional
10 incarceration.

11 (b) Community-based providers shall offer transitional
12 housing and developmentally appropriate services including,
13 but not limited to, workforce training and certification,
14 mental health counseling, financial literacy classes, and
15 restorative justice programming in alignment with State
16 guidelines.

17 (c) The program shall be subject to judicial discretion,
18 allowing sentencing judges to assign eligible individuals to
19 community-based settings instead of Department of Corrections.

20 (d) The Department of Human Services shall approve
21 community-based providers as eligible to participate in the
22 program, based on their ability to deliver high-quality
23 programming consistent with Department of Human Services
24 mandates.

1 Section 20. Funding and payment structure.

2 (a) Community-based providers shall be compensated at a
3 rate equivalent to the monthly per-inmate cost of
4 incarceration as determined by the Department of Corrections
5 in its fiscal impact statement. Community-based providers
6 shall be paid on a monthly basis for the number of individuals
7 within their care.

8 (b) The Department of Corrections shall allocate existing
9 budget authority for contractual services to fund the program
10 created by this Act.

11 (c) The Department of Corrections shall utilize the
12 community-based provider's current federal Negotiated Indirect
13 Cost Rate Agreement, as determined pursuant to 2 CFR Part 200
14 Appendix IV, if applicable. If the community-based provider
15 does not have a current federal Negotiated Indirect Cost Rate
16 Agreement, the Department shall utilize a de minimis rate of
17 15% of modified total indirect cost, as defined by 2 CFR 200.1.
18 The nonprofit organization may volunteer to accept a lower
19 indirect rate on a contract. The Department shall not force or
20 coerce a nonprofit organization to accept a lower indirect
21 cost rate. If the nonprofit organization's federal Negotiated
22 Indirect Cost Rate Agreement changes or the nonprofit
23 organization obtains a federal Negotiated Indirect Cost Rate
24 Agreement during the term of the contract for services, the
25 budget shall be modified accordingly without reducing any line
26 items for direct costs.

1 Section 25. Standards and oversight.

2 (a) The Department of Human Services shall establish
3 operational standards, including housing conditions, workforce
4 training quality, and mental health support services, to
5 ensure program efficacy. The requesting agency must submit to
6 the Department of Human Services operational standards and
7 procedures, proof of satisfaction of any housing, kitchen, and
8 dining code requirements, licenses or certifications of
9 agencies performing workforce training programs, licenses,
10 certifications, or accreditations granted by the Department of
11 Human Services to agencies that will perform mental and
12 behavioral health services, and submit programming related to
13 restorative justice practices to ensure quality and efficacy,
14 and alignment with any applicable city, county and State
15 standards. The Department of Human Services shall either
16 approve or reject the community-based provider's application,
17 in writing, within 45 days of submission. If rejected, the
18 Department of Human Services shall provide detailed reasons
19 for the rejection including instructions on how to resolve any
20 identified areas of concern. The rejected agency may reapply
21 for approval as a community-based provider upon providing
22 proof of reconciliation.

23 (b) The Department of Human Services shall monitor and
24 evaluate providers to maintain compliance with State
25 requirements and provide written reapproval or rejection. If

1 rejected, the community-based provider shall have 90 days to
2 meet approval, or obtain an extension of time to meet
3 approval. If after 90 days or upon expiration of the extension
4 of time approval to continue to operate as a community-based
5 provider is not obtained, any persons sentenced to the
6 community-based provider under this Act must be immediately
7 returned to court for resentencing and a progress report of
8 participation filed with the court. The court shall then
9 transfer the returned person to any other available approved
10 community-based provider or an alternative program for the
11 remainder of the term of probation.

12 Section 30. Reporting and accountability.

13 (a) Community-based providers shall submit annual reports
14 to the Department of Corrections and the Department of Human
15 Services detailing aggregate performance and impact metrics.

16 (b) The Department of Corrections shall report program
17 performance to the General Assembly annually, including cost
18 savings from reduced incarceration based on emerging adults
19 participating with community-based providers for fewer years
20 than they would serve in a Department of Corrections facility.

21 (c) The Department of Human Services shall submit annual
22 reports to the General Assembly identifying all approved
23 community-based providers, including the type of services
24 provided, number of participants served in each site annually,
25 and deidentified demographic data of individuals sentenced

1 under this Act.

2 Section 35. Eligible persons.

3 (a) Notwithstanding the provisions set forth in Section
4 5-5-3 of the Unified Code of Corrections, this Act applies to
5 persons ages 18 through 25, at the time of the commission of
6 the offense, convicted of any non-probationable felony, or any
7 offense upon which a period of incarceration must be imposed
8 upon conviction, except for the following offenses unless the
9 court finds exceptional circumstances exist:

10 (1) if a sentence of natural life is mandated;

11 (2) first degree murder; or

12 (3) any Class X felony offense in which the person
13 personally discharged a firearm during the commission of
14 the crime resulting in bodily harm.

15 (b) Prior criminal history shall not exclude eligibility
16 for sentencing under this Act.

17 Section 40. Sentencing.

18 (a) Upon a conviction by way of plea or otherwise finding
19 of guilt, the court may sentence a person who meets the
20 eligibility requirements under this Act to a term of probation
21 to be performed at an approved community-based provider for a
22 period of not less than one year and not more than 3 years in
23 lieu of incarceration in the Illinois Department of
24 Corrections, which shall be monitored by the adult probation

1 department, if the defendant:

2 (1) does not violate any criminal statute of this
3 State or any other jurisdiction;

4 (2) refrains from possessing a firearm or any other
5 dangerous weapon; and

6 (3) attends and participates in any program activities
7 as detailed in the individualized service plan.

8 All fines, fees, and costs shall be waived for any person
9 sentenced to a community-based provider under this Act.

10 (b) Prior to imposing a sentence of probation under this
11 Act, the defendant shall submit a mitigation report to the
12 court and the court may, upon its own order, also obtain a
13 Presentence Investigation Report. The defendant must also
14 obtain and provide proof of acceptance to a community-based
15 provider and submit an individualized service plan to the
16 court based upon an initial assessment provided by a licensed
17 professional.

18 (c) In determining whether to impose a sentence under this
19 Act, the court shall take into consideration the following:

20 (1) the age, immaturity, or limited mental capacity of
21 the defendant;

22 (2) the nature and circumstances of the offense;

23 (3) whether sentencing under this Act is in the
24 interest of the defendant's rehabilitation, including any
25 employment or involvement in community, educational,
26 training, or vocational programs as detailed in the

1 individualized service plan;

2 (4) whether the defendant suffers from trauma, as
3 supported by documentation or evaluation by a licensed
4 professional; and

5 (5) the potential risk to public safety.

6 (d) The court shall make a detailed record of its findings
7 when imposing or declining to impose sentencing under this Act
8 for any eligible persons.

9 (e) When a defendant is sentenced under this Act, the
10 court shall defer further proceedings in the case until the
11 conclusion of the period or until the filing of a petition
12 alleging violation of a term or condition of the Program. A
13 disposition of probation is considered to be a conviction for
14 the purposes of imposing the conditions of probation and for
15 appeal; however, a sentence under this Act is not a conviction
16 for purposes of disqualifications or disabilities imposed by
17 law upon conviction of a crime unless and until judgment is
18 entered.

19 Section 45. Progress reports. The adult probation
20 department shall submit a written status report to the court,
21 to the State, and to the defense, detailing the progress of the
22 defendant:

23 (1) 90 days after initial sentencing;

24 (2) upon completion of the probation period or the
25 fulfillment of the terms of the individualized service

1 plan; or

2 (3) any time upon request of the court.

3 Section 50. Violation, modification, and revocation of
4 probation.

5 (a) Upon violation of a term or condition of the Program,
6 the court may enter a judgment on its original finding of guilt
7 and proceed as otherwise provided by law.

8 (b) The court shall consider least restrictive
9 alternatives prior to imposing a sentence of incarceration
10 upon a revocation of the sentence of probation.

11 Section 55. Termination of probation.

12 (a) Upon fulfillment of the terms and conditions of the
13 individualized service plan and the submission of an aftercare
14 plan prepared by the community-based provider, the court shall
15 discharge the defendant and dismiss the proceedings against
16 the defendant.

17 (b) The court may terminate the sentence of probation
18 prior to the expiration date upon a finding that all
19 requirements of the Individualized Service Plan have been met,
20 an aftercare plan has been submitted, and the court finds that
21 early termination is in the best interests of the defendant
22 and the community.

23 Section 99. Effective date. This Act takes effect upon

1 becoming law.".