



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5104

by Rep. Carol Ammons

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2	from Ch. 38, par. 1003-6-2
730 ILCS 5/3-7-2a	from Ch. 38, par. 1003-7-2a
730 ILCS 5/3-12-1	from Ch. 38, par. 1003-12-1
730 ILCS 5/3-12-2	from Ch. 38, par. 1003-12-2
730 ILCS 5/3-12-5	from Ch. 38, par. 1003-12-5

Amends the Unified Code of Corrections. Deletes provision that the Department of Corrections shall require the committed person receiving medical or dental services on a non-emergency basis to pay a \$5 co-payment to the Department for each visit for medical or dental services. Provides that if a Department facility maintains a commissary or commissaries serving inmates, the selling prices for all goods shall be sufficient to cover the costs of the goods and an additional charge of up to 10% (rather than 35% for tobacco products and up to 25% for non-tobacco products). Deletes provisions that the Department shall notify the Attorney General of the existence of any proceeds which it believes should be applied towards a satisfaction, in whole or in part, of the person's incarceration costs. Deletes provision that of the compensation earned for work assignments, a portion, as determined by the Department, shall be used to offset the cost of the committed person's incarceration.

LRB100 18106 MRW 33300 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 3-6-2, 3-7-2a, 3-12-1, 3-12-2, and 3-12-5 as  
6 follows:

7 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

8 Sec. 3-6-2. Institutions and Facility Administration.

9 (a) Each institution and facility of the Department shall  
10 be administered by a chief administrative officer appointed by  
11 the Director. A chief administrative officer shall be  
12 responsible for all persons assigned to the institution or  
13 facility. The chief administrative officer shall administer  
14 the programs of the Department for the custody and treatment of  
15 such persons.

16 (b) The chief administrative officer shall have such  
17 assistants as the Department may assign.

18 (c) The Director or Assistant Director shall have the  
19 emergency powers to temporarily transfer individuals without  
20 formal procedures to any State, county, municipal or regional  
21 correctional or detention institution or facility in the State,  
22 subject to the acceptance of such receiving institution or  
23 facility, or to designate any reasonably secure place in the

1 State as such an institution or facility and to make transfers  
2 thereto. However, transfers made under emergency powers shall  
3 be reviewed as soon as practicable under Article 8, and shall  
4 be subject to Section 5-905 of the Juvenile Court Act of 1987.  
5 This Section shall not apply to transfers to the Department of  
6 Human Services which are provided for under Section 3-8-5 or  
7 Section 3-10-5.

8 (d) The Department shall provide educational programs for  
9 all committed persons so that all persons have an opportunity  
10 to attain the achievement level equivalent to the completion of  
11 the twelfth grade in the public school system in this State.  
12 Other higher levels of attainment shall be encouraged and  
13 professional instruction shall be maintained wherever  
14 possible. The Department may establish programs of mandatory  
15 education and may establish rules and regulations for the  
16 administration of such programs. A person committed to the  
17 Department who, during the period of his or her incarceration,  
18 participates in an educational program provided by or through  
19 the Department and through that program is awarded or earns the  
20 number of hours of credit required for the award of an  
21 associate, baccalaureate, or higher degree from a community  
22 college, college, or university located in Illinois shall  
23 reimburse the State, through the Department, for the costs  
24 incurred by the State in providing that person during his or  
25 her incarceration with the education that qualifies him or her  
26 for the award of that degree. The costs for which reimbursement

1 is required under this subsection shall be determined and  
2 computed by the Department under rules and regulations that it  
3 shall establish for that purpose. However, interest at the rate  
4 of 6% per annum shall be charged on the balance of those costs  
5 from time to time remaining unpaid, from the date of the  
6 person's parole, mandatory supervised release, or release  
7 constituting a final termination of his or her commitment to  
8 the Department until paid.

9 (d-5) A person committed to the Department is entitled to  
10 confidential testing for infection with human immunodeficiency  
11 virus (HIV) and to counseling in connection with such testing,  
12 with no copay to the committed person. A person committed to  
13 the Department who has tested positive for infection with HIV  
14 is entitled to medical care while incarcerated, counseling, and  
15 referrals to support services, in connection with that positive  
16 test result. Implementation of this subsection (d-5) is subject  
17 to appropriation.

18 (e) A person committed to the Department who becomes in  
19 need of medical or surgical treatment but is incapable of  
20 giving consent thereto shall receive such medical or surgical  
21 treatment by the chief administrative officer consenting on the  
22 person's behalf. Before the chief administrative officer  
23 consents, he or she shall obtain the advice of one or more  
24 physicians licensed to practice medicine in all its branches in  
25 this State. If such physician or physicians advise:

26 (1) that immediate medical or surgical treatment is

1 required relative to a condition threatening to cause  
2 death, damage or impairment to bodily functions, or  
3 disfigurement; and

4 (2) that the person is not capable of giving consent to  
5 such treatment; the chief administrative officer may give  
6 consent for such medical or surgical treatment, and such  
7 consent shall be deemed to be the consent of the person for  
8 all purposes, including, but not limited to, the authority  
9 of a physician to give such treatment.

10 (e-5) If a physician providing medical care to a committed  
11 person on behalf of the Department advises the chief  
12 administrative officer that the committed person's mental or  
13 physical health has deteriorated as a result of the cessation  
14 of ingestion of food or liquid to the point where medical or  
15 surgical treatment is required to prevent death, damage, or  
16 impairment to bodily functions, the chief administrative  
17 officer may authorize such medical or surgical treatment.

18 (f) In the event that the person requires medical care and  
19 treatment at a place other than the institution or facility,  
20 the person may be removed therefrom under conditions prescribed  
21 by the Department. ~~The Department shall require the committed~~  
22 ~~person receiving medical or dental services on a non-emergency~~  
23 ~~basis to pay a \$5 co-payment to the Department for each visit~~  
24 ~~for medical or dental services. The amount of each co-payment~~  
25 ~~shall be deducted from the committed person's individual~~  
26 ~~account. A committed person who has a chronic illness, as~~

1 ~~defined by Department rules and regulations, shall be exempt~~  
2 ~~from the \$5 co-payment for treatment of the chronic illness. A~~  
3 ~~committed person shall not be subject to a \$5 co-payment for~~  
4 ~~follow-up visits ordered by a physician, who is employed by, or~~  
5 ~~contracts with, the Department. A committed person who is~~  
6 ~~indigent is exempt from the \$5 co-payment and is entitled to~~  
7 ~~receive medical or dental services on the same basis as a~~  
8 ~~committed person who is financially able to afford the~~  
9 ~~co-payment. For purposes of this Section only, "indigent" means~~  
10 ~~a committed person who has \$20 or less in his or her Inmate~~  
11 ~~Trust Fund at the time of such services and for the 30 days~~  
12 ~~prior to such services. Notwithstanding any other provision in~~  
13 ~~this subsection (f) to the contrary, any person committed to~~  
14 ~~any facility operated by the Department of Juvenile Justice, as~~  
15 ~~set forth in Section 3-2.5-15 of this Code, is exempt from the~~  
16 ~~co-payment requirement for the duration of confinement in those~~  
17 ~~facilities.~~

18 (g) Any person having sole custody of a child at the time  
19 of commitment or any woman giving birth to a child after her  
20 commitment, may arrange through the Department of Children and  
21 Family Services for suitable placement of the child outside of  
22 the Department of Corrections. The Director of the Department  
23 of Corrections may determine that there are special reasons why  
24 the child should continue in the custody of the mother until  
25 the child is 6 years old.

26 (h) The Department may provide Family Responsibility

1 Services which may consist of, but not be limited to the  
2 following:

- 3 (1) family advocacy counseling;
- 4 (2) parent self-help group;
- 5 (3) parenting skills training;
- 6 (4) parent and child overnight program;
- 7 (5) parent and child reunification counseling, either  
8 separately or together, preceding the inmate's release;  
9 and

10 (6) a prerelease reunification staffing involving the  
11 family advocate, the inmate and the child's counselor, or  
12 both and the inmate.

13 (i) (Blank).

14 (j) Any person convicted of a sex offense as defined in the  
15 Sex Offender Management Board Act shall be required to receive  
16 a sex offender evaluation prior to release into the community  
17 from the Department of Corrections. The sex offender evaluation  
18 shall be conducted in conformance with the standards and  
19 guidelines developed under the Sex Offender Management Board  
20 Act and by an evaluator approved by the Board.

21 (k) Any minor committed to the Department of Juvenile  
22 Justice for a sex offense as defined by the Sex Offender  
23 Management Board Act shall be required to undergo sex offender  
24 treatment by a treatment provider approved by the Board and  
25 conducted in conformance with the Sex Offender Management Board  
26 Act.

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



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

17 Prior to the release of an inmate who the Department knows  
18 has tested positive for infection with HIV, the Department in a  
19 timely manner shall offer the inmate transitional case  
20 management, including referrals to other support services.

21 (m) The chief administrative officer of each institution or  
22 facility of the Department shall make a room in the institution  
23 or facility available for addiction recovery services to be  
24 provided to committed persons on a voluntary basis. The  
25 services shall be provided for one hour once a week at a time  
26 specified by the chief administrative officer of the

1 institution or facility if the following conditions are met:

2 (1) the addiction recovery service contacts the chief  
3 administrative officer to arrange the meeting;

4 (2) the committed person may attend the meeting for  
5 addiction recovery services only if the committed person  
6 uses pre-existing free time already available to the  
7 committed person;

8 (3) all disciplinary and other rules of the institution  
9 or facility remain in effect;

10 (4) the committed person is not given any additional  
11 privileges to attend addiction recovery services;

12 (5) if the addiction recovery service does not arrange  
13 for scheduling a meeting for that week, no addiction  
14 recovery services shall be provided to the committed person  
15 in the institution or facility for that week;

16 (6) the number of committed persons who may attend an  
17 addiction recovery meeting shall not exceed 40 during any  
18 session held at the correctional institution or facility;

19 (7) a volunteer seeking to provide addiction recovery  
20 services under this subsection (m) must submit an  
21 application to the Department of Corrections under  
22 existing Department rules and the Department must review  
23 the application within 60 days after submission of the  
24 application to the Department; and

25 (8) each institution and facility of the Department  
26 shall manage the addiction recovery services program

1 according to its own processes and procedures.

2 For the purposes of this subsection (m), "addiction  
3 recovery services" means recovery services for alcoholics and  
4 addicts provided by volunteers of recovery support services  
5 recognized by the Department of Human Services.

6 (Source: P.A. 96-284, eff. 1-1-10; 97-244, eff. 8-4-11; 97-323,  
7 eff. 8-12-11; 97-562, eff. 1-1-12; 97-802, eff. 7-13-12;  
8 97-813, eff. 7-13-12.)

9 (730 ILCS 5/3-7-2a) (from Ch. 38, par. 1003-7-2a)

10 Sec. 3-7-2a. If a facility maintains a commissary or  
11 commissaries serving inmates, the selling prices for all goods  
12 shall be sufficient to cover the costs of the goods and an  
13 additional charge of up to 10% ~~35% for tobacco products and up~~  
14 ~~to 25% for non-tobacco products~~. The amount of the additional  
15 charges for goods sold at commissaries serving inmates shall be  
16 based upon the amount necessary to pay for the wages and  
17 benefits of commissary employees who are employed in any  
18 commissary facilities of the Department. The Department shall  
19 determine the additional charges upon any changes in wages and  
20 benefits of commissary employees as negotiated in the  
21 collective bargaining agreement. If a facility maintains a  
22 commissary or commissaries serving employees, the selling  
23 price for all goods shall be sufficient to cover the costs of  
24 the goods and an additional charge of up to 10%. A compliance  
25 audit of all commissaries and the distribution of commissary

1 funds shall be included in the regular compliance audit of the  
2 Department conducted by the Auditor General in accordance with  
3 the Illinois State Auditing Act.

4 Items purchased for sale at any such commissary shall be  
5 purchased, wherever possible, at wholesale costs. If a facility  
6 maintains a commissary or commissaries as of the effective date  
7 of this amendatory Act of the 93rd General Assembly, the  
8 Department may not contract with a private contractor or vendor  
9 to operate, manage, or perform any portion of the commissary  
10 services. The Department may not enter into any such contract  
11 for commissary services at a facility that opens subsequent to  
12 the effective date of this amendatory Act of the 93rd General  
13 Assembly.

14 (Source: P.A. 93-607, eff. 1-1-04; 94-913, eff. 6-23-06.)

15 (730 ILCS 5/3-12-1) (from Ch. 38, par. 1003-12-1)

16 Sec. 3-12-1. Useful Employment. The Department shall, in so  
17 far as possible, employ at useful work committed persons  
18 confined in institutions and facilities of the Department, who  
19 are over the age of compulsory school attendance, physically  
20 capable of such employment, and not otherwise occupied in  
21 programs of the Department. Such employment shall equip such  
22 persons with marketable skills and ~~and~~ promote habits of work and  
23 responsibility ~~and contribute to the expense of the employment~~  
24 ~~program and the committed person's cost of incarceration.~~

25 (Source: P.A. 86-450.)

1 (730 ILCS 5/3-12-2) (from Ch. 38, par. 1003-12-2)

2 Sec. 3-12-2. Types of employment.

3 (a) The Department shall provide inmate workers for  
4 Illinois Correctional Industries to work in programs  
5 established to train and employ committed persons in the  
6 production of food stuffs and finished goods and any articles,  
7 materials or supplies for resale to State agencies and  
8 authorized purchasers. It may also employ committed persons on  
9 public works, buildings and property, the conservation of  
10 natural resources of the State, anti-pollution or  
11 environmental control projects, or for other public purposes,  
12 for the maintenance of the Department's buildings and  
13 properties and for the production of food or other necessities  
14 for its programs. The Department may establish, maintain and  
15 employ committed persons in the production of vehicle  
16 registration plates. A committed person's labor shall not be  
17 sold, contracted or hired out by the Department except under  
18 this Article.

19 (b) Works of art, literature, handicraft or other items  
20 produced by committed persons as an avocation and not as a  
21 product of a work program of the Department may be sold to the  
22 public under rules and regulations established by the  
23 Department. The cost of selling such products may be deducted  
24 from the proceeds, and the balance shall be credited to the  
25 person's account under Section 3-4-3. ~~The Department shall~~

1 ~~notify the Attorney General of the existence of any proceeds~~  
2 ~~which it believes should be applied towards a satisfaction, in~~  
3 ~~whole or in part, of the person's incarceration costs.~~

4 (Source: P.A. 96-877, eff. 7-1-10; 96-943, eff. 7-1-10.)

5 (730 ILCS 5/3-12-5) (from Ch. 38, par. 1003-12-5)

6 Sec. 3-12-5. Compensation. Persons performing a work  
7 assignment under subsection (a) of Section 3-12-2 may receive  
8 wages under rules and regulations of the Department. In  
9 determining rates of compensation, the Department shall  
10 consider the effort, skill and economic value of the work  
11 performed. Compensation may be given to persons who participate  
12 in other programs of the Department. ~~Of the compensation earned~~  
13 ~~pursuant to this Section, a portion, as determined by the~~  
14 ~~Department, shall be used to offset the cost of the committed~~  
15 ~~person's incarceration.~~ If the committed person files a lawsuit  
16 determined frivolous under Article XXII of the Code of Civil  
17 Procedure, 50% of the compensation shall be used to offset the  
18 filing fees and costs of the lawsuit as provided in that  
19 Article until all fees and costs are paid in full. All other  
20 wages shall be deposited in the individual's account under  
21 rules and regulations of the Department. ~~The Department shall~~  
22 ~~notify the Attorney General of any compensation applied towards~~  
23 ~~a satisfaction, in whole or in part, of the person's~~  
24 ~~incarceration costs.~~

25 (Source: P.A. 94-1017, eff. 7-7-06.)