



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0184

Introduced 1/22/2021, by Rep. Mary E. Flowers and Rita Mayfield

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-6-2

from Ch. 38, par. 1003-6-2

730 ILCS 5/3-10-2

from Ch. 38, par. 1003-10-2

Amends the Unified Code of Corrections. Provides that the Department of Corrections shall provide educational programs in each of its institutions and facilities for all committed persons. Provides that the Department must allow into each institution and facility of the Department teachers who hold Professional Educator Licenses issued by the State Superintendent of Education under the School Code to teach committed persons. Provides that the Department shall provide vocational training for committed persons in each institution and facility of the Department. Provides that each institution and facility of the Department of Juvenile Justice shall provide educational and vocational training for all persons committed to the Department.

LRB102 03791 RLC 13804 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 3-6-2 and 3-10-2 as follows:

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

7 Sec. 3-6-2. Institutions and facility administration.

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

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

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

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

7 (d) The Department shall provide educational programs in
8 each of its institutions and facilities for all committed
9 persons so that all persons have an opportunity to attain the
10 achievement level equivalent to the completion of the twelfth
11 grade in the public school system in this State. Other higher
12 levels of attainment shall be encouraged and professional
13 instruction shall be maintained wherever possible. The
14 Department must allow into each institution and facility of
15 the Department teachers who hold Professional Educator
16 Licenses issued by the State Superintendent of Education under
17 the School Code to teach committed persons. The Department may
18 establish programs of mandatory education and may establish
19 rules and regulations for the administration of such programs.
20 A person committed to the Department who, during the period of
21 his or her incarceration, participates in an educational
22 program provided by or through the Department and through that
23 program is awarded or earns the number of hours of credit
24 required for the award of an associate, baccalaureate, or
25 higher degree from a community college, college, or university
26 located in Illinois shall reimburse the State, through the

1 Department, for the costs incurred by the State in providing
2 that person during his or her incarceration with the education
3 that qualifies him or her for the award of that degree. The
4 costs for which reimbursement is required under this
5 subsection shall be determined and computed by the Department
6 under rules and regulations that it shall establish for that
7 purpose. However, interest at the rate of 6% per annum shall be
8 charged on the balance of those costs from time to time
9 remaining unpaid, from the date of the person's parole,
10 mandatory supervised release, or release constituting a final
11 termination of his or her commitment to the Department until
12 paid.

13 (d-1) The Department shall provide vocational training for
14 committed persons in each institution and facility of the
15 Department.

16 (d-5) A person committed to the Department is entitled to
17 confidential testing for infection with human immunodeficiency
18 virus (HIV) and to counseling in connection with such testing,
19 with no copay to the committed person. A person committed to
20 the Department who has tested positive for infection with HIV
21 is entitled to medical care while incarcerated, counseling,
22 and referrals to support services, in connection with that
23 positive test result. Implementation of this subsection (d-5)
24 is subject to appropriation.

25 (e) A person committed to the Department who becomes in
26 need of medical or surgical treatment but is incapable of

1 giving consent thereto shall receive such medical or surgical
2 treatment by the chief administrative officer consenting on
3 the person's behalf. Before the chief administrative officer
4 consents, he or she shall obtain the advice of one or more
5 physicians licensed to practice medicine in all its branches
6 in this State. If such physician or physicians advise:

7 (1) that immediate medical or surgical treatment is
8 required relative to a condition threatening to cause
9 death, damage or impairment to bodily functions, or
10 disfigurement; and

11 (2) that the person is not capable of giving consent
12 to such treatment; the chief administrative officer may
13 give consent for such medical or surgical treatment, and
14 such consent shall be deemed to be the consent of the
15 person for all purposes, including, but not limited to,
16 the authority of a physician to give such treatment.

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

25 (f) In the event that the person requires medical care and
26 treatment at a place other than the institution or facility,

1 the person may be removed therefrom under conditions
2 prescribed by the Department. Neither the Department of
3 Corrections nor the Department of Juvenile Justice may require
4 a committed person or person committed to any facility
5 operated by the Department of Juvenile Justice, as set forth
6 in Section 3-2.5-15 of this Code, to pay any co-payment for
7 receiving medical or dental services.

8 (f-5) The Department shall comply with the Health Care
9 Violence Prevention Act.

10 (g) Any person having sole custody of a child at the time
11 of commitment or any woman giving birth to a child after her
12 commitment, may arrange through the Department of Children and
13 Family Services for suitable placement of the child outside of
14 the Department of Corrections. The Director of the Department
15 of Corrections may determine that there are special reasons
16 why the child should continue in the custody of the mother
17 until the child is 6 years old.

18 (h) The Department may provide Family Responsibility
19 Services which may consist of, but not be limited to the
20 following:

- 21 (1) family advocacy counseling;
- 22 (2) parent self-help group;
- 23 (3) parenting skills training;
- 24 (4) parent and child overnight program;
- 25 (5) parent and child reunification counseling, either
26 separately or together, preceding the inmate's release;

1 and

2 (6) a prerelease reunification staffing involving the
3 family advocate, the inmate and the child's counselor, or
4 both and the inmate.

5 (i) (Blank).

6 (j) Any person convicted of a sex offense as defined in the
7 Sex Offender Management Board Act shall be required to receive
8 a sex offender evaluation prior to release into the community
9 from the Department of Corrections. The sex offender
10 evaluation shall be conducted in conformance with the
11 standards and guidelines developed under the Sex Offender
12 Management Board Act and by an evaluator approved by the
13 Board.

14 (k) Any minor committed to the Department of Juvenile
15 Justice for a sex offense as defined by the Sex Offender
16 Management Board Act shall be required to undergo sex offender
17 treatment by a treatment provider approved by the Board and
18 conducted in conformance with the Sex Offender Management
19 Board Act.

20 (l) Prior to the release of any inmate committed to a
21 facility of the Department or the Department of Juvenile
22 Justice, the Department must provide the inmate with
23 appropriate information verbally, in writing, by video, or
24 other electronic means, concerning HIV and AIDS. The
25 Department shall develop the informational materials in
26 consultation with the Department of Public Health. At the same

1 time, the Department must also offer the committed person the
2 option of testing for infection with human immunodeficiency
3 virus (HIV), with no copayment for the test. Pre-test
4 information shall be provided to the committed person and
5 informed consent obtained as required in subsection (d) of
6 Section 3 and Section 5 of the AIDS Confidentiality Act. The
7 Department may conduct opt-out HIV testing as defined in
8 Section 4 of the AIDS Confidentiality Act. If the Department
9 conducts opt-out HIV testing, the Department shall place signs
10 in English, Spanish and other languages as needed in multiple,
11 highly visible locations in the area where HIV testing is
12 conducted informing inmates that they will be tested for HIV
13 unless they refuse, and refusal or acceptance of testing shall
14 be documented in the inmate's medical record. The Department
15 shall follow procedures established by the Department of
16 Public Health to conduct HIV testing and testing to confirm
17 positive HIV test results. All testing must be conducted by
18 medical personnel, but pre-test and other information may be
19 provided by committed persons who have received appropriate
20 training. The Department, in conjunction with the Department
21 of Public Health, shall develop a plan that complies with the
22 AIDS Confidentiality Act to deliver confidentially all
23 positive or negative HIV test results to inmates or former
24 inmates. Nothing in this Section shall require the Department
25 to offer HIV testing to an inmate who is known to be infected
26 with HIV, or who has been tested for HIV within the previous

1 180 days and whose documented HIV test result is available to
2 the Department electronically. The testing provided under this
3 subsection (1) shall consist of a test approved by the
4 Illinois Department of Public Health to determine the presence
5 of HIV infection, based upon recommendations of the United
6 States Centers for Disease Control and Prevention. If the test
7 result is positive, a reliable supplemental test based upon
8 recommendations of the United States Centers for Disease
9 Control and Prevention shall be administered.

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

14 (m) The chief administrative officer of each institution
15 or facility of the Department shall make a room in the
16 institution or facility available for substance use disorder
17 services to be provided to committed persons on a voluntary
18 basis. The services shall be provided for one hour once a week
19 at a time specified by the chief administrative officer of the
20 institution or facility if the following conditions are met:

21 (1) the substance use disorder service contacts the
22 chief administrative officer to arrange the meeting;

23 (2) the committed person may attend the meeting for
24 substance use disorder services only if the committed
25 person uses pre-existing free time already available to
26 the committed person;

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

3 (4) the committed person is not given any additional
4 privileges to attend substance use disorder services;

5 (5) if the substance use disorder service does not
6 arrange for scheduling a meeting for that week, no
7 substance use disorder services shall be provided to the
8 committed person in the institution or facility for that
9 week;

10 (6) the number of committed persons who may attend a
11 substance use disorder meeting shall not exceed 40 during
12 any session held at the correctional institution or
13 facility;

14 (7) a volunteer seeking to provide substance use
15 disorder services under this subsection (m) must submit an
16 application to the Department of Corrections under
17 existing Department rules and the Department must review
18 the application within 60 days after submission of the
19 application to the Department; and

20 (8) each institution and facility of the Department
21 shall manage the substance use disorder services program
22 according to its own processes and procedures.

23 For the purposes of this subsection (m), "substance use
24 disorder services" means recovery services for persons with
25 substance use disorders provided by volunteers of recovery
26 support services recognized by the Department of Human

1 Services.

2 (Source: P.A. 100-759, eff. 1-1-19; 100-1051, eff. 1-1-19;
3 101-81, eff. 7-12-19; 101-86, eff. 1-1-20.)

4 (730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

5 Sec. 3-10-2. Examination of persons committed to the
6 Department of Juvenile Justice.

7 (a) A person committed to the Department of Juvenile
8 Justice shall be examined in regard to his medical,
9 psychological, social, educational and vocational condition
10 and history, including the use of alcohol and other drugs, the
11 circumstances of his offense and any other information as the
12 Department of Juvenile Justice may determine.

13 (a-5) Upon admission of a person committed to the
14 Department of Juvenile Justice, the Department of Juvenile
15 Justice must provide the person with appropriate information
16 concerning HIV and AIDS in writing, verbally, or by video or
17 other electronic means. The Department of Juvenile Justice
18 shall develop the informational materials in consultation with
19 the Department of Public Health. At the same time, the
20 Department of Juvenile Justice also must offer the person the
21 option of being tested, at no charge to the person, for
22 infection with human immunodeficiency virus (HIV). Pre-test
23 information shall be provided to the committed person and
24 informed consent obtained as required in subsection (q) of
25 Section 3 and Section 5 of the AIDS Confidentiality Act. The

1 Department of Juvenile Justice may conduct opt-out HIV testing
2 as defined in Section 4 of the AIDS Confidentiality Act. If the
3 Department conducts opt-out HIV testing, the Department shall
4 place signs in English, Spanish and other languages as needed
5 in multiple, highly visible locations in the area where HIV
6 testing is conducted informing inmates that they will be
7 tested for HIV unless they refuse, and refusal or acceptance
8 of testing shall be documented in the inmate's medical record.
9 The Department shall follow procedures established by the
10 Department of Public Health to conduct HIV testing and testing
11 to confirm positive HIV test results. All testing must be
12 conducted by medical personnel, but pre-test and other
13 information may be provided by committed persons who have
14 received appropriate training. The Department, in conjunction
15 with the Department of Public Health, shall develop a plan
16 that complies with the AIDS Confidentiality Act to deliver
17 confidentially all positive or negative HIV test results to
18 inmates or former inmates. Nothing in this Section shall
19 require the Department to offer HIV testing to an inmate who is
20 known to be infected with HIV, or who has been tested for HIV
21 within the previous 180 days and whose documented HIV test
22 result is available to the Department electronically. The
23 testing provided under this subsection (a-5) shall consist of
24 a test approved by the Illinois Department of Public Health to
25 determine the presence of HIV infection, based upon
26 recommendations of the United States Centers for Disease

1 Control and Prevention. If the test result is positive, a
2 reliable supplemental test based upon recommendations of the
3 United States Centers for Disease Control and Prevention shall
4 be administered.

5 Also, upon the admission of a person committed to the
6 Department of Juvenile Justice, the Department of Juvenile
7 Justice must inform the person of the Department's obligation
8 to provide the person with medical care.

9 (b) Based on its examination, the Department of Juvenile
10 Justice may exercise the following powers in developing a
11 treatment program of any person committed to the Department of
12 Juvenile Justice:

13 (1) Require participation by him in vocational,
14 physical, educational and corrective training and
15 activities to return him to the community.

16 (2) Place him in any institution or facility of the
17 Department of Juvenile Justice.

18 (3) Order replacement or referral to the Parole and
19 Pardon Board as often as it deems desirable. The
20 Department of Juvenile Justice shall refer the person to
21 the Parole and Pardon Board as required under Section
22 3-3-4.

23 (4) Enter into agreements with the Secretary of Human
24 Services and the Director of Children and Family Services,
25 with courts having probation officers, and with private
26 agencies or institutions for separate care or special

1 treatment of persons subject to the control of the
2 Department of Juvenile Justice.

3 (c) The Department of Juvenile Justice shall make periodic
4 reexamination of all persons under the control of the
5 Department of Juvenile Justice to determine whether existing
6 orders in individual cases should be modified or continued.
7 This examination shall be made with respect to every person at
8 least once annually.

9 (d) A record of the treatment decision, including any
10 modification thereof and the reason therefor, shall be part of
11 the committed person's master record file.

12 (e) The Department of Juvenile Justice shall by regular
13 mail and telephone or electronic message notify the parent,
14 guardian, or nearest relative of any person committed to the
15 Department of Juvenile Justice of his or her physical location
16 and any change of his or her physical location.

17 (f) Each institution and facility of the Department of
18 Juvenile Justice shall provide educational and vocational
19 training for all persons committed to the Department.

20 (Source: P.A. 100-19, eff. 1-1-18; 100-700, eff. 8-3-18;
21 101-81, eff. 7-12-19.)