



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB0469**

Introduced 1/26/2005, by Rep. Monique D. Davis

**SYNOPSIS AS INTRODUCED:**

730 ILCS 5/3-6-2

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

730 ILCS 5/3-8-2

from Ch. 38, par. 1003-8-2

Amends the Unified Code of Corrections. Provides that upon admission and prior to release from a Department of Corrections facility, each inmate shall be tested for infection with human immunodeficiency virus (HIV) and any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Present law requires HIV testing only of an inmate prior to release who has a documented history of intravenous drug use, and upon the receipt of that inmate's written informed consent.

LRB094 07014 RLC 37138 b

FISCAL NOTE ACT  
MAY APPLY

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 3-8-2 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 of  
14 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 State,  
21 subject to the acceptance of such receiving institution or  
22 facility, or to designate any reasonably secure place in the  
23 State as such an institution or facility and to make transfers  
24 thereto. However, transfers made under emergency powers shall  
25 be reviewed as soon as practicable under Article 8, and shall  
26 be subject to Section 5-905 of the Juvenile Court Act of 1987.  
27 This Section shall not apply to transfers to the Department of  
28 Human Services which are provided for under Section 3-8-5 or  
29 Section 3-10-5.

30 (d) The Department shall provide educational programs for  
31 all committed persons so that all persons have an opportunity  
32 to attain the achievement level equivalent to the completion of

1 the twelfth grade in the public school system in this State.  
2 Other higher levels of attainment shall be encouraged and  
3 professional instruction shall be maintained wherever  
4 possible. The Department may establish programs of mandatory  
5 education and may establish rules and regulations for the  
6 administration of such programs. A person committed to the  
7 Department who, during the period of his or her incarceration,  
8 participates in an educational program provided by or through  
9 the Department and through that program is awarded or earns the  
10 number of hours of credit required for the award of an  
11 associate, baccalaureate, or higher degree from a community  
12 college, college, or university located in Illinois shall  
13 reimburse the State, through the Department, for the costs  
14 incurred by the State in providing that person during his or  
15 her incarceration with the education that qualifies him or her  
16 for the award of that degree. The costs for which reimbursement  
17 is required under this subsection shall be determined and  
18 computed by the Department under rules and regulations that it  
19 shall establish for that purpose. However, interest at the rate  
20 of 6% per annum shall be charged on the balance of those costs  
21 from time to time remaining unpaid, from the date of the  
22 person's parole, mandatory supervised release, or release  
23 constituting a final termination of his or her commitment to  
24 the Department until paid.

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

33 (1) that immediate medical or surgical treatment is  
34 required relative to a condition threatening to cause  
35 death, damage or impairment to bodily functions, or  
36 disfigurement; and

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

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

15           (f) In the event that the person requires medical care and  
16 treatment at a place other than the institution or facility,  
17 the person may be removed therefrom under conditions prescribed  
18 by the Department. The Department shall require the committed  
19 person receiving medical or dental services on a non-emergency  
20 basis to pay a \$2 co-payment to the Department for each visit  
21 for medical or dental services. The amount of each co-payment  
22 shall be deducted from the committed person's individual  
23 account. A committed person who has a chronic illness, as  
24 defined by Department rules and regulations, shall be exempt  
25 from the \$2 co-payment for treatment of the chronic illness. A  
26 committed person shall not be subject to a \$2 co-payment for  
27 follow-up visits ordered by a physician, who is employed by, or  
28 contracts with, the Department. A committed person who is  
29 indigent is exempt from the \$2 co-payment and is entitled to  
30 receive medical or dental services on the same basis as a  
31 committed person who is financially able to afford the  
32 co-payment. Notwithstanding any other provision in this  
33 subsection (f) to the contrary, any person committed to any  
34 facility operated by the Juvenile Division, as set forth in  
35 subsection (b) of Section 3-2-5 of this Code, is exempt from  
36 the co-payment requirement for the duration of confinement in

1 those facilities.

2 (g) Any person having sole custody of a child at the time  
3 of commitment or any woman giving birth to a child after her  
4 commitment, may arrange through the Department of Children and  
5 Family Services for suitable placement of the child outside of  
6 the Department of Corrections. The Director of the Department  
7 of Corrections may determine that there are special reasons why  
8 the child should continue in the custody of the mother until  
9 the child is 6 years old.

10 (h) The Department may provide Family Responsibility  
11 Services which may consist of, but not be limited to the  
12 following:

- 13 (1) family advocacy counseling;  
14 (2) parent self-help group;  
15 (3) parenting skills training;  
16 (4) parent and child overnight program;  
17 (5) parent and child reunification counseling, either  
18 separately or together, preceding the inmate's release;  
19 and

20 (6) a prerelease reunification staffing involving the  
21 family advocate, the inmate and the child's counselor, or  
22 both and the inmate.

23 (i) Prior to the release of any inmate ~~who has a documented~~  
24 ~~history of intravenous drug use, and upon the receipt of that~~  
25 ~~inmate's written informed consent,~~ the Department shall  
26 provide for the testing of such inmate for infection with human  
27 immunodeficiency virus (HIV) and any other identified  
28 causative agent of acquired immunodeficiency syndrome (AIDS).  
29 The testing provided under this subsection shall consist of an  
30 enzyme-linked immunosorbent assay (ELISA) test or such other  
31 test as may be approved by the Illinois Department of Public  
32 Health. If the test result is positive, the Western Blot Assay  
33 or more reliable confirmatory test shall be administered. All  
34 inmates tested in accordance with the provisions of this  
35 subsection shall be provided with pre-test and post-test  
36 counseling. Notwithstanding any provision of this subsection

1 to the contrary, the Department shall not be required to  
2 conduct the testing and counseling required by this subsection  
3 unless sufficient funds to cover all costs of such testing and  
4 counseling are appropriated for that purpose by the General  
5 Assembly.

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 evaluation  
10 shall be conducted in conformance with the standards and  
11 guidelines developed under the Sex Offender Management Board  
12 Act and by an evaluator approved by the Board.

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

19 (Source: P.A. 92-292, eff. 8-9-01; 93-616, eff. 1-1-04; 93-928,  
20 eff. 1-1-05.)

21 (730 ILCS 5/3-8-2) (from Ch. 38, par. 1003-8-2)

22 Sec. 3-8-2. Social Evaluation. (a) A social evaluation  
23 shall be made of a committed person's medical, psychological,  
24 educational and vocational condition and history, including  
25 the use of alcohol and other drugs, the circumstances of his  
26 offense, and such other information as the Department may  
27 determine. The committed person shall be assigned to an  
28 institution or facility in so far as practicable in accordance  
29 with the social evaluation. Recommendations shall be made for  
30 medical, dental, psychiatric, psychological and social service  
31 treatment.

32 (b) A record of the social evaluation shall be entered in  
33 the committed person's master record file and shall be  
34 forwarded to the institution or facility to which the person is  
35 assigned.

1           (c) Upon admission to a correctional institution each  
2 committed person shall be given a physical examination and  
3 tested for infection with human immunodeficiency virus (HIV)  
4 and any other identified causative agent of acquired  
5 immunodeficiency syndrome (AIDS). The testing provided under  
6 this subsection (c) shall consist of an enzyme-linked  
7 immunosorbent assay (ELISA) test or such other test as may be  
8 approved by the Illinois Department of Public Health. If the  
9 test result is positive, the Western Blot Assay or more  
10 reliable confirmatory test shall be administered. All inmates  
11 tested in accordance with the provisions of this subsection (c)  
12 shall be provided with pre-test and post-test counseling. If he  
13 is suspected of having a communicable disease that in the  
14 judgment of the Department medical personnel requires medical  
15 isolation, the committed person shall remain in medical  
16 isolation until it is no longer deemed medically necessary.  
17 (Source: P.A. 87-1256.)