



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB6287

by Rep. Sam Yingling

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-136 new

730 ILCS 5/3-7-6

735 ILCS 5/12-108.5 new

from Ch. 38, par. 1003-7-6

Amends the General Provisions Article of the Illinois Pension Code. Provides that if a member or participant is receiving an annuity or pension from a pension fund or retirement system and is incarcerated within the Department of Corrections for a felony, then, after receipt of the certified cost of confinement from the Director of the Department of Corrections, the board of trustees of that pension fund or retirement system shall use the amount of the annuity or pension payment otherwise payable to that member or participant to reimburse the Department of Corrections for the cost of confinement of that participant or member, up to the amount certified by the Director of the Department of Corrections. Amends the Unified Code of Corrections. Requires the Director of the Department of Corrections to certify to the applicable pension fund or retirement system the cost of confinement for the member or participant. Amends the Code of Civil Procedure. Provides that the provisions of the Code of Civil Procedure concerning the enforcement of judgments do not preclude a pension fund or retirement system established under the Illinois Pension Code from using a member's or participant's annuity or pension to reimburse the Department of Corrections for the cost of confinement of an individual. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective immediately.

LRB098 21924 RPS 60786 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by adding
5 Section 1-136 as follows:

6 (40 ILCS 5/1-136 new)

7 Sec. 1-136. Reimbursement for the cost of confinement.

8 (a) If a member or participant is receiving an annuity or
9 pension from a pension fund or retirement system established
10 under this Code and is incarcerated within the Department of
11 Corrections for a felony, then, after receipt of the certified
12 cost of confinement as provided in subsection (d-5) of Section
13 3-7-6 of the Unified Code of Corrections, the board of trustees
14 of that pension fund or retirement system shall use the amount
15 of the annuity or pension payment that is otherwise payable to
16 that member or participant to reimburse the Department of
17 Corrections for the cost of confinement of that member or
18 participant, up to the certified amount.

19 (b) This Section is operable to the extent allowable for
20 the pension fund or retirement system to maintain qualified
21 plan status under the federal Internal Revenue Code of 1986 and
22 other applicable federal laws.

23 (c) This Section applies without regard to whether the

1 member or participant is in active service on or after the
2 effective date of this amendatory Act of the 98th General
3 Assembly.

4 Section 10. The Unified Code of Corrections is amended by
5 changing Section 3-7-6 as follows:

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

7 Sec. 3-7-6. Reimbursement for expenses.

8 (a) Responsibility of committed persons. For the purposes
9 of this Section, "committed persons" mean those persons who
10 through judicial determination have been placed in the custody
11 of the Department on the basis of a conviction as an adult.
12 Committed persons shall be responsible to reimburse the
13 Department for the expenses incurred by their incarceration at
14 a rate to be determined by the Department in accordance with
15 this Section.

16 (1) Committed persons shall fully cooperate with the
17 Department by providing complete financial information for
18 the purposes under this Section.

19 (2) The failure of a committed person to fully
20 cooperate as provided for in clauses (3) and (4) of
21 subsection (a-5) shall be considered for purposes of a
22 parole determination. Any committed person who willfully
23 refuses to cooperate with the obligations set forth in this
24 Section may be subject to the loss of sentence credit

1 towards his or her sentence of up to 180 days.

2 (a-5) Assets information form.

3 (1) The Department shall develop a form, which shall be
4 used by the Department to obtain information from all
5 committed persons regarding assets of the persons.

6 (2) In order to enable the Department to determine the
7 financial status of the committed person, the form shall
8 provide for obtaining the age and marital status of a
9 committed person, the number and ages of children of the
10 person, the number and ages of other dependents, the type
11 and value of real estate, the type and value of personal
12 property, cash and bank accounts, the location of any lock
13 boxes, the type and value of investments, pensions and
14 annuities and any other personalty of significant cash
15 value, including but not limited to jewelry, art work and
16 collectables, and all medical or dental insurance policies
17 covering the committed person. The form may also provide
18 for other information deemed pertinent by the Department in
19 the investigation of a committed person's assets.

20 (3) Upon being developed, the form shall be submitted
21 to each committed person as of the date the form is
22 developed and to every committed person who thereafter is
23 sentenced to imprisonment under the jurisdiction of the
24 Department. The form may be resubmitted to a committed
25 person by the Department for purpose of obtaining current
26 information regarding the assets of the person.

1 (4) Every committed person shall complete the form or
2 provide for completion of the form and the committed person
3 shall swear under oath or affirm that to the best of his or
4 her knowledge the information provided is complete and
5 accurate.

6 (b) Expenses. The rate at which sums to be charged for the
7 expenses incurred by a committed person for his or her
8 confinement shall be computed by the Department as the average
9 per capita cost per day for all inmates of that institution or
10 facility for that fiscal year. The average per capita cost per
11 day shall be computed by the Department based on the average
12 per capita cost per day for the operation of that institution
13 or facility for the fiscal year immediately preceding the
14 period of incarceration for which the rate is being calculated.
15 The Department shall establish rules and regulations providing
16 for the computation of the above costs, and shall determine the
17 average per capita cost per day for each of its institutions or
18 facilities for each fiscal year. The Department shall have the
19 power to modify its rules and regulations, so as to provide for
20 the most accurate and most current average per capita cost per
21 day computation. Where the committed person is placed in a
22 facility outside the Department, the Department may pay the
23 actual cost of services in that facility, and may collect
24 reimbursement for the entire amount paid from the committed
25 person receiving those services.

26 (c) Records. The records of the Department, including, but

1 not limited to, those relating to: the average per capita cost
2 per day for a particular institution or facility for a
3 particular year, and the calculation of the average per capita
4 cost per day; the average daily population of a particular
5 Department correctional institution or facility for a
6 particular year; the specific placement of a particular
7 committed person in various Department correctional
8 institutions or facilities for various periods of time; and the
9 record of transactions of a particular committed person's trust
10 account under Section 3-4-3 of this Act; may be proved in any
11 legal proceeding, by a reproduced copy thereof or by a computer
12 printout of Department records, under the certificate of the
13 Director. If reproduced copies are used, the Director must
14 certify that those are true and exact copies of the records on
15 file with the Department. If computer printouts of records of
16 the Department are offered as proof, the Director must certify
17 that those computer printouts are true and exact
18 representations of records properly entered into standard
19 electronic computing equipment, in the regular course of the
20 Department's business, at or reasonably near the time of the
21 occurrence of the facts recorded, from trustworthy and reliable
22 information. The reproduced copy or computer printout shall,
23 without further proof, be admitted into evidence in any legal
24 proceeding, and shall be prima facie correct and prima facie
25 evidence of the accuracy of the information contained therein.

26 (d) Authority. The Director, or the Director's designee,

1 may, when he or she knows or reasonably believes that a
2 committed person, or the estate of that person, has assets
3 which may be used to satisfy all or part of a judgment rendered
4 under this Act, or when he or she knows or reasonably believes
5 that a committed person is engaged in gang-related activity and
6 has a substantial sum of money or other assets, provide for the
7 forwarding to the Attorney General of a report on the committed
8 person and that report shall contain a completed form under
9 subsection (a-5) together with all other information available
10 concerning the assets of the committed person and an estimate
11 of the total expenses for that committed person, and authorize
12 the Attorney General to institute proceedings to require the
13 persons, or the estates of the persons, to reimburse the
14 Department for the expenses incurred by their incarceration.
15 The Attorney General, upon authorization of the Director, or
16 the Director's designee, shall institute actions on behalf of
17 the Department and pursue claims on the Department's behalf in
18 probate and bankruptcy proceedings, to recover from committed
19 persons the expenses incurred by their confinement. For
20 purposes of this subsection (d), "gang-related" activity has
21 the meaning ascribed to it in Section 10 of the Illinois
22 Streetgang Terrorism Omnibus Prevention Act.

23 (d-5) The Director, or the Director's designee, must, when
24 he or she knows or reasonably believes that a committed person
25 is a member or participant in a pension fund or retirement
26 system established under the Illinois Pension Code and is

1 receiving an annuity or pension from that pension fund or
2 retirement system, certify to the applicable pension fund or
3 retirement system the cost of confinement for that person using
4 the rate provided in subsection (b) of this Section.

5 (e) Scope and limitations.

6 (1) No action under this Section shall be initiated
7 more than 2 years after the release or death of the
8 committed person in question.

9 (2) The death of a convicted person, by execution or
10 otherwise, while committed to a Department correctional
11 institution or facility shall not act as a bar to any
12 action or proceeding under this Section.

13 (3) The assets of a committed person, for the purposes
14 of this Section, shall include any property, tangible or
15 intangible, real or personal, belonging to or due to a
16 committed or formerly committed person including income or
17 payments to the person from social security, worker's
18 compensation, veteran's compensation, pension benefits, or
19 from any other source whatsoever and any and all assets and
20 property of whatever character held in the name of the
21 person, held for the benefit of the person, or payable or
22 otherwise deliverable to the person. Any trust, or portion
23 of a trust, of which a convicted person is a beneficiary,
24 shall be construed as an asset of the person, to the extent
25 that benefits thereunder are required to be paid to the
26 person, or shall in fact be paid to the person. At the time

1 of a legal proceeding by the Attorney General under this
2 Section, if it appears that the committed person has any
3 assets which ought to be subjected to the claim of the
4 Department under this Section, the court may issue an order
5 requiring any person, corporation, or other legal entity
6 possessed or having custody of those assets to appropriate
7 any of the assets or a portion thereof toward reimbursing
8 the Department as provided for under this Section. No
9 provision of this Section shall be construed in violation
10 of any State or federal limitation on the collection of
11 money judgments.

12 (4) Nothing in this Section shall preclude the
13 Department from applying federal benefits that are
14 specifically provided for the care and treatment of a
15 committed person toward the cost of care provided by a
16 State facility or private agency.

17 (Source: P.A. 97-697, eff. 6-22-12.)

18 Section 15. The Code of Civil Procedure is amended by
19 adding Section 12-108.5 as follows:

20 (735 ILCS 5/12-108.5 new)

21 Sec. 12-108.5. Reimbursement for the cost of confinement.
22 Nothing contained in this Article precludes a pension fund or
23 retirement system established under the Illinois Pension Code
24 from using a participant's or member's annuity or pension to

1 reimburse the Department of Corrections for the cost of
2 confinement as provided in Section 1-136 of the Illinois
3 Pension Code.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.