



Rep. Gregory Harris

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LRB099 17198 RLC 45871 a

1 AMENDMENT TO HOUSE BILL 5104

2 AMENDMENT NO. _____. Amend House Bill 5104 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-2-2 as follows:

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

7 Sec. 3-2-2. Powers and Duties of the Department.

8 (1) In addition to the powers, duties and responsibilities
9 which are otherwise provided by law, the Department shall have
10 the following powers:

11 (a) To accept persons committed to it by the courts of
12 this State for care, custody, treatment and
13 rehabilitation, and to accept federal prisoners and aliens
14 over whom the Office of the Federal Detention Trustee is
15 authorized to exercise the federal detention function for
16 limited purposes and periods of time.

1 (b) To develop and maintain reception and evaluation
2 units for purposes of analyzing the custody and
3 rehabilitation needs of persons committed to it and to
4 assign such persons to institutions and programs under its
5 control or transfer them to other appropriate agencies. In
6 consultation with the Department of Alcoholism and
7 Substance Abuse (now the Department of Human Services), the
8 Department of Corrections shall develop a master plan for
9 the screening and evaluation of persons committed to its
10 custody who have alcohol or drug abuse problems, and for
11 making appropriate treatment available to such persons;
12 the Department shall report to the General Assembly on such
13 plan not later than April 1, 1987. The maintenance and
14 implementation of such plan shall be contingent upon the
15 availability of funds.

16 (b-1) To create and implement, on January 1, 2002, a
17 pilot program to establish the effectiveness of
18 pupillometer technology (the measurement of the pupil's
19 reaction to light) as an alternative to a urine test for
20 purposes of screening and evaluating persons committed to
21 its custody who have alcohol or drug problems. The pilot
22 program shall require the pupillometer technology to be
23 used in at least one Department of Corrections facility.
24 The Director may expand the pilot program to include an
25 additional facility or facilities as he or she deems
26 appropriate. A minimum of 4,000 tests shall be included in

1 the pilot program. The Department must report to the
2 General Assembly on the effectiveness of the program by
3 January 1, 2003.

4 (b-5) To develop, in consultation with the Department
5 of State Police, a program for tracking and evaluating each
6 inmate from commitment through release for recording his or
7 her gang affiliations, activities, or ranks.

8 (c) To maintain and administer all State correctional
9 institutions and facilities under its control and to
10 establish new ones as needed. Pursuant to its power to
11 establish new institutions and facilities, the Department
12 may, with the written approval of the Governor, authorize
13 the Department of Central Management Services to enter into
14 an agreement of the type described in subsection (d) of
15 Section 405-300 of the Department of Central Management
16 Services Law (20 ILCS 405/405-300). The Department shall
17 designate those institutions which shall constitute the
18 State Penitentiary System.

19 Pursuant to its power to establish new institutions and
20 facilities, the Department may authorize the Department of
21 Central Management Services to accept bids from counties
22 and municipalities for the construction, remodeling or
23 conversion of a structure to be leased to the Department of
24 Corrections for the purposes of its serving as a
25 correctional institution or facility. Such construction,
26 remodeling or conversion may be financed with revenue bonds

1 issued pursuant to the Industrial Building Revenue Bond Act
2 by the municipality or county. The lease specified in a bid
3 shall be for a term of not less than the time needed to
4 retire any revenue bonds used to finance the project, but
5 not to exceed 40 years. The lease may grant to the State
6 the option to purchase the structure outright.

7 Upon receipt of the bids, the Department may certify
8 one or more of the bids and shall submit any such bids to
9 the General Assembly for approval. Upon approval of a bid
10 by a constitutional majority of both houses of the General
11 Assembly, pursuant to joint resolution, the Department of
12 Central Management Services may enter into an agreement
13 with the county or municipality pursuant to such bid.

14 (c-5) To build and maintain regional juvenile
15 detention centers and to charge a per diem to the counties
16 as established by the Department to defray the costs of
17 housing each minor in a center. In this subsection (c-5),
18 "juvenile detention center" means a facility to house
19 minors during pendency of trial who have been transferred
20 from proceedings under the Juvenile Court Act of 1987 to
21 prosecutions under the criminal laws of this State in
22 accordance with Section 5-805 of the Juvenile Court Act of
23 1987, whether the transfer was by operation of law or
24 permissive under that Section. The Department shall
25 designate the counties to be served by each regional
26 juvenile detention center.

1 (d) To develop and maintain programs of control,
2 rehabilitation and employment of committed persons within
3 its institutions.

4 (d-5) To provide a pre-release job preparation program
5 for inmates at Illinois adult correctional centers.

6 (e) To establish a system of supervision and guidance
7 of committed persons in the community.

8 (f) To establish in cooperation with the Department of
9 Transportation to supply a sufficient number of prisoners
10 for use by the Department of Transportation to clean up the
11 trash and garbage along State, county, township, or
12 municipal highways as designated by the Department of
13 Transportation. The Department of Corrections, at the
14 request of the Department of Transportation, shall furnish
15 such prisoners at least annually for a period to be agreed
16 upon between the Director of Corrections and the Director
17 of Transportation. The prisoners used on this program shall
18 be selected by the Director of Corrections on whatever
19 basis he deems proper in consideration of their term,
20 behavior and earned eligibility to participate in such
21 program - where they will be outside of the prison facility
22 but still in the custody of the Department of Corrections.
23 Prisoners convicted of first degree murder, or a Class X
24 felony, or armed violence, or aggravated kidnapping, or
25 criminal sexual assault, aggravated criminal sexual abuse
26 or a subsequent conviction for criminal sexual abuse, or

1 forcible detention, or arson, or a prisoner adjudged a
2 Habitual Criminal shall not be eligible for selection to
3 participate in such program. The prisoners shall remain as
4 prisoners in the custody of the Department of Corrections
5 and such Department shall furnish whatever security is
6 necessary. The Department of Transportation shall furnish
7 trucks and equipment for the highway cleanup program and
8 personnel to supervise and direct the program. Neither the
9 Department of Corrections nor the Department of
10 Transportation shall replace any regular employee with a
11 prisoner.

12 (g) To maintain records of persons committed to it and
13 to establish programs of research, statistics and
14 planning.

15 (h) To investigate the grievances of any person
16 committed to the Department, to inquire into any alleged
17 misconduct by employees or committed persons, and to
18 investigate the assets of committed persons to implement
19 Section 3-7-6 of this Code; and for these purposes it may
20 issue subpoenas and compel the attendance of witnesses and
21 the production of writings and papers, and may examine
22 under oath any witnesses who may appear before it; to also
23 investigate alleged violations of a parolee's or
24 releasee's conditions of parole or release; and for this
25 purpose it may issue subpoenas and compel the attendance of
26 witnesses and the production of documents only if there is

1 reason to believe that such procedures would provide
2 evidence that such violations have occurred.

3 If any person fails to obey a subpoena issued under
4 this subsection, the Director may apply to any circuit
5 court to secure compliance with the subpoena. The failure
6 to comply with the order of the court issued in response
7 thereto shall be punishable as contempt of court.

8 (i) To appoint and remove the chief administrative
9 officers, and administer programs of training and
10 development of personnel of the Department. Personnel
11 assigned by the Department to be responsible for the
12 custody and control of committed persons or to investigate
13 the alleged misconduct of committed persons or employees or
14 alleged violations of a parolee's or releasee's conditions
15 of parole shall be conservators of the peace for those
16 purposes, and shall have the full power of peace officers
17 outside of the facilities of the Department in the
18 protection, arrest, retaking and reconfining of committed
19 persons or where the exercise of such power is necessary to
20 the investigation of such misconduct or violations. This
21 subsection shall not apply to persons committed to the
22 Department of Juvenile Justice under the Juvenile Court Act
23 of 1987 on aftercare release.

24 (j) To cooperate with other departments and agencies
25 and with local communities for the development of standards
26 and programs for better correctional services in this

1 State.

2 (k) To administer all moneys and properties of the
3 Department.

4 (l) To report annually to the Governor on the committed
5 persons, institutions and programs of the Department.

6 (1-5) (Blank).

7 (m) To make all rules and regulations and exercise all
8 powers and duties vested by law in the Department.

9 (n) To establish rules and regulations for
10 administering a system of sentence credits, established in
11 accordance with Section 3-6-3, subject to review by the
12 Prisoner Review Board.

13 (o) To administer the distribution of funds from the
14 State Treasury to reimburse counties where State penal
15 institutions are located for the payment of assistant
16 state's attorneys' salaries under Section 4-2001 of the
17 Counties Code.

18 (p) To exchange information with the Department of
19 Human Services and the Department of Healthcare and Family
20 Services for the purpose of verifying living arrangements
21 and for other purposes directly connected with the
22 administration of this Code and the Illinois Public Aid
23 Code.

24 (q) To establish a diversion program.

25 The program shall provide a structured environment for
26 selected technical parole or mandatory supervised release

1 violators and committed persons who have violated the rules
2 governing their conduct while in work release. This program
3 shall not apply to those persons who have committed a new
4 offense while serving on parole or mandatory supervised
5 release or while committed to work release.

6 Elements of the program shall include, but shall not be
7 limited to, the following:

8 (1) The staff of a diversion facility shall provide
9 supervision in accordance with required objectives set
10 by the facility.

11 (2) Participants shall be required to maintain
12 employment.

13 (3) Each participant shall pay for room and board
14 at the facility on a sliding-scale basis according to
15 the participant's income.

16 (4) Each participant shall:

17 (A) provide restitution to victims in
18 accordance with any court order;

19 (B) provide financial support to his
20 dependents; and

21 (C) make appropriate payments toward any other
22 court-ordered obligations.

23 (5) Each participant shall complete community
24 service in addition to employment.

25 (6) Participants shall take part in such
26 counseling, educational and other programs as the

1 Department may deem appropriate.

2 (7) Participants shall submit to drug and alcohol
3 screening.

4 (8) The Department shall promulgate rules
5 governing the administration of the program.

6 (r) To enter into intergovernmental cooperation
7 agreements under which persons in the custody of the
8 Department may participate in a county impact
9 incarceration program established under Section 3-6038 or
10 3-15003.5 of the Counties Code.

11 (r-5) (Blank).

12 (r-10) To systematically and routinely identify with
13 respect to each streetgang active within the correctional
14 system: (1) each active gang; (2) every existing inter-gang
15 affiliation or alliance; and (3) the current leaders in
16 each gang. The Department shall promptly segregate leaders
17 from inmates who belong to their gangs and allied gangs.
18 "Segregate" means no physical contact and, to the extent
19 possible under the conditions and space available at the
20 correctional facility, prohibition of visual and sound
21 communication. For the purposes of this paragraph (r-10),
22 "leaders" means persons who:

23 (i) are members of a criminal streetgang;

24 (ii) with respect to other individuals within the
25 streetgang, occupy a position of organizer,
26 supervisor, or other position of management or

1 leadership; and

2 (iii) are actively and personally engaged in
3 directing, ordering, authorizing, or requesting
4 commission of criminal acts by others, which are
5 punishable as a felony, in furtherance of streetgang
6 related activity both within and outside of the
7 Department of Corrections.

8 "Streetgang", "gang", and "streetgang related" have the
9 meanings ascribed to them in Section 10 of the Illinois
10 Streetgang Terrorism Omnibus Prevention Act.

11 (s) To operate a super-maximum security institution,
12 in order to manage and supervise inmates who are disruptive
13 or dangerous and provide for the safety and security of the
14 staff and the other inmates.

15 (t) To monitor any unprivileged conversation or any
16 unprivileged communication, whether in person or by mail,
17 telephone, or other means, between an inmate who, before
18 commitment to the Department, was a member of an organized
19 gang and any other person without the need to show cause or
20 satisfy any other requirement of law before beginning the
21 monitoring, except as constitutionally required. The
22 monitoring may be by video, voice, or other method of
23 recording or by any other means. As used in this
24 subdivision (1)(t), "organized gang" has the meaning
25 ascribed to it in Section 10 of the Illinois Streetgang
26 Terrorism Omnibus Prevention Act.

1 As used in this subdivision (1)(t), "unprivileged
2 conversation" or "unprivileged communication" means a
3 conversation or communication that is not protected by any
4 privilege recognized by law or by decision, rule, or order
5 of the Illinois Supreme Court.

6 (u) To establish a Women's and Children's Pre-release
7 Community Supervision Program for the purpose of providing
8 housing and services to eligible female inmates, as
9 determined by the Department, and their newborn and young
10 children.

11 (u-5) To issue an order, whenever a person committed to
12 the Department absconds or absents himself or herself,
13 without authority to do so, from any facility or program to
14 which he or she is assigned. The order shall be certified
15 by the Director, the Supervisor of the Apprehension Unit,
16 or any person duly designated by the Director, with the
17 seal of the Department affixed. The order shall be directed
18 to all sheriffs, coroners, and police officers, or to any
19 particular person named in the order. Any order issued
20 pursuant to this subdivision (1) (u-5) shall be sufficient
21 warrant for the officer or person named in the order to
22 arrest and deliver the committed person to the proper
23 correctional officials and shall be executed the same as
24 criminal process.

25 (v) To do all other acts necessary to carry out the
26 provisions of this Chapter.

1 (2) The Department of Corrections shall by January 1, 1998,
2 consider building and operating a correctional facility within
3 100 miles of a county of over 2,000,000 inhabitants, especially
4 a facility designed to house juvenile participants in the
5 impact incarceration program.

6 (3) When the Department lets bids for contracts for medical
7 services to be provided to persons committed to Department
8 facilities by a health maintenance organization, medical
9 service corporation, or other health care provider, the bid may
10 only be let to a health care provider that has obtained an
11 irrevocable letter of credit or performance bond issued by a
12 company whose bonds have an investment grade or higher rating
13 by a bond rating organization.

14 (3.5) On and after the effective date of this amendatory
15 Act of the 99th General Assembly, the Department shall employ
16 no less than 150 nurses and may not let bids for contracts for
17 additional nursing services provided by nurses who are are not
18 employed by this State.

19 (4) When the Department lets bids for contracts for food or
20 commissary services to be provided to Department facilities,
21 the bid may only be let to a food or commissary services
22 provider that has obtained an irrevocable letter of credit or
23 performance bond issued by a company whose bonds have an
24 investment grade or higher rating by a bond rating
25 organization.

26 (5) On and after the date 6 months after August 16, 2013

1 (the effective date of Public Act 98-488), as provided in the
2 Executive Order 1 (2012) Implementation Act, all of the powers,
3 duties, rights, and responsibilities related to State
4 healthcare purchasing under this Code that were transferred
5 from the Department of Corrections to the Department of
6 Healthcare and Family Services by Executive Order 3 (2005) are
7 transferred back to the Department of Corrections; however,
8 powers, duties, rights, and responsibilities related to State
9 healthcare purchasing under this Code that were exercised by
10 the Department of Corrections before the effective date of
11 Executive Order 3 (2005) but that pertain to individuals
12 resident in facilities operated by the Department of Juvenile
13 Justice are transferred to the Department of Juvenile Justice.
14 (Source: P.A. 97-697, eff. 6-22-12; 97-800, eff. 7-13-12;
15 97-802, eff. 7-13-12; 98-463, eff. 8-16-13; 98-488, eff.
16 8-16-13; 98-558, eff. 1-1-14; 98-756, eff. 7-16-14.)

17 Section 10. The Private Correctional Facility Moratorium
18 Act is amended by changing Section 3 as follows:

19 (730 ILCS 140/3) (from Ch. 38, par. 1583)

20 Sec. 3. Certain contracts prohibited. After the effective
21 date of this Act, the State, any unit of local government, or a
22 county sheriff, shall not contract with a private contractor or
23 private vendor for the provision of services relating to the
24 operation of a correctional facility or the incarceration of

1 persons in the custody of the Department of Corrections, the
2 Department of Juvenile Justice, or a sheriff; however, this Act
3 does not apply to (1) State work release centers or juvenile
4 residential facilities that provide separate care or special
5 treatment operated in whole or part by private contractors or
6 (2) except as provided for in subsection (3.5) of Section 3-2-2
7 of the Unified Code of Corrections, contracts for ancillary
8 services, including medical services, educational services,
9 repair and maintenance contracts, or other services not
10 directly related to the ownership, management or operation of
11 security services in a correctional facility.

12 (Source: P.A. 97-380, eff. 1-1-12.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."