



Rep. Yolonda Morris

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LRB103 33715 RLC 70725 a

1 AMENDMENT TO HOUSE BILL 4576

2 AMENDMENT NO. _____. Amend House Bill 4576 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
9 responsibilities which are otherwise provided by law, the
10 Department shall have 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
14 noncitizens over whom the Office of the Federal Detention
15 Trustee is authorized to exercise the federal detention
16 function for 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),
8 the Department of Corrections shall develop a master plan
9 for the screening and evaluation of persons committed to
10 its custody who have alcohol or drug abuse problems, and
11 for making appropriate treatment available to such
12 persons; the Department shall report to the General
13 Assembly on such plan not later than April 1, 1987. The
14 maintenance and implementation of such plan shall be
15 contingent upon the 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 Illinois
5 State Police, a program for tracking and evaluating each
6 inmate from commitment through release for recording his
7 or 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
14 into an agreement of the type described in subsection (d)
15 of Section 405-300 of the Department of Central Management
16 Services Law. The Department shall designate those
17 institutions which shall constitute the State Penitentiary
18 System. The Department of Juvenile Justice shall maintain
19 and administer all State youth centers pursuant to
20 subsection (d) of Section 3-2.5-20.

21 Pursuant to its power to establish new institutions
22 and facilities, the Department may authorize the
23 Department of Central Management Services to accept bids
24 from counties and municipalities for the construction,
25 remodeling, or conversion of a structure to be leased to
26 the Department of Corrections for the purposes of its

1 serving as a correctional institution or facility. Such
2 construction, remodeling, or conversion may be financed
3 with revenue bonds issued pursuant to the Industrial
4 Building Revenue Bond Act by the municipality or county.
5 The lease specified in a bid shall be for a term of not
6 less than the time needed to retire any revenue bonds used
7 to finance the project, but not to exceed 40 years. The
8 lease may grant to the State the option to purchase the
9 structure outright.

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

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

1 permissive under that Section. The Department shall
2 designate the counties to be served by each regional
3 juvenile detention center.

4 (d) To develop and maintain programs of control,
5 rehabilitation, and employment of committed persons within
6 its institutions.

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

9 (d-10) To provide educational and visitation
10 opportunities to committed persons within its institutions
11 through temporary access to content-controlled tablets
12 that may be provided as a privilege to committed persons
13 to induce or reward compliance.

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

16 (f) To establish in cooperation with the Department of
17 Transportation to supply a sufficient number of prisoners
18 for use by the Department of Transportation to clean up
19 the trash and garbage along State, county, township, or
20 municipal highways as designated by the Department of
21 Transportation. The Department of Corrections, at the
22 request of the Department of Transportation, shall furnish
23 such prisoners at least annually for a period to be agreed
24 upon between the Director of Corrections and the Secretary
25 of Transportation. The prisoners used on this program
26 shall be selected by the Director of Corrections on

1 whatever basis he deems proper in consideration of their
2 term, behavior and earned eligibility to participate in
3 such program - where they will be outside of the prison
4 facility but still in the custody of the Department of
5 Corrections. Prisoners convicted of first degree murder,
6 or a Class X felony, or armed violence, or aggravated
7 kidnapping, or criminal sexual assault, aggravated
8 criminal sexual abuse or a subsequent conviction for
9 criminal sexual abuse, or forcible detention, or arson, or
10 a prisoner adjudged a Habitual Criminal shall not be
11 eligible for selection to participate in such program. The
12 prisoners shall remain as prisoners in the custody of the
13 Department of Corrections and such Department shall
14 furnish whatever security is necessary. The Department of
15 Transportation shall furnish trucks and equipment for the
16 highway cleanup program and personnel to supervise and
17 direct the program. Neither the Department of Corrections
18 nor the Department of Transportation shall replace any
19 regular employee with a prisoner.

20 (g) To maintain records of persons committed to it and
21 to establish programs of research, statistics, and
22 planning.

23 (h) To investigate the grievances of any person
24 committed to the Department and to inquire into any
25 alleged misconduct by employees or committed persons; and
26 for these purposes it may issue subpoenas and compel the

1 attendance of witnesses and the production of writings and
2 papers, and may examine under oath any witnesses who may
3 appear before it; to also investigate alleged violations
4 of a parolee's or releasee's conditions of parole or
5 release; and for this purpose it may issue subpoenas and
6 compel the attendance of witnesses and the production of
7 documents only if there is reason to believe that such
8 procedures would provide evidence that such violations
9 have occurred.

10 If any person fails to obey a subpoena issued under
11 this subsection, the Director may apply to any circuit
12 court to secure compliance with the subpoena. The failure
13 to comply with the order of the court issued in response
14 thereto shall be punishable as contempt of court.

15 (i) To appoint and remove the chief administrative
16 officers, and administer programs of training and
17 development of personnel of the Department. Personnel
18 assigned by the Department to be responsible for the
19 custody and control of committed persons or to investigate
20 the alleged misconduct of committed persons or employees
21 or alleged violations of a parolee's or releasee's
22 conditions of parole shall be conservators of the peace
23 for those purposes, and shall have the full power of peace
24 officers outside of the facilities of the Department in
25 the protection, arrest, retaking, and reconfining of
26 committed persons or where the exercise of such power is

1 necessary to the investigation of such misconduct or
2 violations. This subsection shall not apply to persons
3 committed to the Department of Juvenile Justice under the
4 Juvenile Court Act of 1987 on aftercare release.

5 (j) To cooperate with other departments and agencies
6 and with local communities for the development of
7 standards and programs for better correctional services in
8 this State.

9 (k) To administer all moneys and properties of the
10 Department.

11 (l) To report annually to the Governor on the
12 committed persons, institutions, and programs of the
13 Department.

14 (l-5) (Blank).

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

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

21 (o) To administer the distribution of funds from the
22 State Treasury to reimburse counties where State penal
23 institutions are located for the payment of assistant
24 state's attorneys' salaries under Section 4-2001 of the
25 Counties Code.

26 (p) To exchange information with the Department of

1 Human Services and the Department of Healthcare and Family
2 Services for the purpose of verifying living arrangements
3 and for other purposes directly connected with the
4 administration of this Code and the Illinois Public Aid
5 Code.

6 (q) To establish a diversion program.

7 The program shall provide a structured environment for
8 selected technical parole or mandatory supervised release
9 violators and committed persons who have violated the
10 rules governing their conduct while in work release. This
11 program shall not apply to those persons who have
12 committed a new offense while serving on parole or
13 mandatory supervised release or while committed to work
14 release.

15 Elements of the program shall include, but shall not
16 be limited to, the following:

17 (1) The staff of a diversion facility shall
18 provide supervision in accordance with required
19 objectives set by the facility.

20 (2) Participants shall be required to maintain
21 employment.

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

25 (4) Each participant shall:

26 (A) provide restitution to victims in

1 accordance with any court order;

2 (B) provide financial support to his
3 dependents; and

4 (C) make appropriate payments toward any other
5 court-ordered obligations.

6 (5) Each participant shall complete community
7 service in addition to employment.

8 (6) Participants shall take part in such
9 counseling, educational, and other programs as the
10 Department may deem appropriate.

11 (7) Participants shall submit to drug and alcohol
12 screening.

13 (8) The Department shall promulgate rules
14 governing the administration of the program.

15 (r) To enter into intergovernmental cooperation
16 agreements under which persons in the custody of the
17 Department may participate in a county impact
18 incarceration program established under Section 3-6038 or
19 3-15003.5 of the Counties Code.

20 (r-5) (Blank).

21 (r-10) To systematically and routinely identify with
22 respect to each streetgang active within the correctional
23 system: (1) each active gang; (2) every existing
24 inter-gang affiliation or alliance; and (3) the current
25 leaders in each gang. The Department shall promptly
26 segregate leaders from inmates who belong to their gangs

1 and allied gangs. "Segregate" means no physical contact
2 and, to the extent possible under the conditions and space
3 available at the correctional facility, prohibition of
4 visual and sound communication. For the purposes of this
5 paragraph (r-10), "leaders" means persons who:

6 (i) are members of a criminal streetgang;

7 (ii) with respect to other individuals within the
8 streetgang, occupy a position of organizer,
9 supervisor, or other position of management or
10 leadership; and

11 (iii) are actively and personally engaged in
12 directing, ordering, authorizing, or requesting
13 commission of criminal acts by others, which are
14 punishable as a felony, in furtherance of streetgang
15 related activity both within and outside of the
16 Department of Corrections.

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

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

24 (t) To monitor any unprivileged conversation or any
25 unprivileged communication, whether in person or by mail,
26 telephone, or other means, between an inmate who, before

1 commitment to the Department, was a member of an organized
2 gang and any other person without the need to show cause or
3 satisfy any other requirement of law before beginning the
4 monitoring, except as constitutionally required. The
5 monitoring may be by video, voice, or other method of
6 recording or by any other means. As used in this
7 subdivision (1)(t), "organized gang" has the meaning
8 ascribed to it in Section 10 of the Illinois Streetgang
9 Terrorism Omnibus Prevention Act.

10 As used in this subdivision (1)(t), "unprivileged
11 conversation" or "unprivileged communication" means a
12 conversation or communication that is not protected by any
13 privilege recognized by law or by decision, rule, or order
14 of the Illinois Supreme Court.

15 (u) To establish a Women's and Children's Pre-release
16 Community Supervision Program for the purpose of providing
17 housing and services to eligible female inmates, as
18 determined by the Department, and their newborn and young
19 children.

20 (u-5) To issue an order, whenever a person committed
21 to the Department absconds or absents himself or herself,
22 without authority to do so, from any facility or program
23 to which he or she is assigned. The order shall be
24 certified by the Director, the Supervisor of the
25 Apprehension Unit, or any person duly designated by the
26 Director, with the seal of the Department affixed. The

1 order shall be directed to all sheriffs, coroners, and
2 police officers, or to any particular person named in the
3 order. Any order issued pursuant to this subdivision
4 (1)(u-5) shall be sufficient warrant for the officer or
5 person named in the order to arrest and deliver the
6 committed person to the proper correctional officials and
7 shall be executed the same as criminal process.

8 (u-6) To appoint a point of contact person who shall
9 receive suggestions, complaints, or other requests to the
10 Department from visitors to Department institutions or
11 facilities and from other members of the public.

12 (u-7) To adopt a rule, in consultation with a
13 librarian who has a minimum of a Master's degree or has a
14 Ph.D. in Library Science or Library and Information
15 Science from an accredited college or university,
16 appointed by the Director, prohibiting the chief
17 administrative officer or other correctional officer of a
18 correctional institution or facility of the Department
19 from summarily rejecting for use or receipt by committed
20 persons books, publications, or library materials or from
21 establishing lists of prohibited publications to committed
22 persons unless those books, publications, or library
23 materials: (1) are detrimental to the security of the
24 correctional institution or facility; (2) constitute child
25 pornography as defined in Section 11-20.1 of the Criminal
26 Code of 2012; or (3) may be used to facilitate criminal

1 activity. Materials that are detrimental to the security
2 of the correctional institution or may be used to
3 facilitate criminal activity are materials that:

4 (i) facilitate unauthorized communication between
5 individuals in custody;

6 (ii) blatantly encourage activities that may lead
7 to the use of physical violence or group disruption;

8 (iii) overtly advocate or encourage violence,
9 hatred, or group disruption;

10 (iv) encourage or instruct in the commission of
11 criminal activity as defined by Illinois and federal
12 criminal laws;

13 (v) depict or describe procedures for the
14 construction or use of weapons, ammunition, bombs, or
15 incendiary devices;

16 (vi) depict or describe procedures for making
17 alcoholic beverages or manufacturing drugs;

18 (vii) depict, describe, or encourage methods of
19 escape from correctional facilities or provides
20 material that may assist in an escape attempt such as a
21 detailed map of areas surrounding Illinois
22 correctional facilities; or

23 (viii) contain content concerning security threat
24 groups or depictions of hand signs or symbols that
25 appear to be related to a security threat group and
26 could promote or enhance the image of a security

1 threat group within the facility or may be interpreted
2 as legitimizing gang behavior.

3 The rule shall provide that a committed person may
4 appeal to the Director or another person or body that the
5 Director may appoint if the committed person is denied
6 access to the books, publications, or library materials
7 that are requested. A final decision of the Director or
8 appointed person or body is subject to review under the
9 Illinois Administrative Procedure Act. The rule shall also
10 provide a procedure to give timely notice directly to the
11 publisher, author, and the person who sent the material
12 (to the extent each can be readily identified), if a
13 publication is disapproved or approved conditionally, and
14 the rule shall provide an opportunity to file an objection
15 and submit a written supportive statement or other
16 documentation. The notice shall be timely provided to
17 allow a reasonable opportunity to submit objections before
18 a decision is made on whether to approve, approve
19 conditionally, or reject such publication.

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

22 (2) The Department of Corrections shall by January 1,
23 1998, consider building and operating a correctional facility
24 within 100 miles of a county of over 2,000,000 inhabitants,
25 especially a facility designed to house juvenile participants
26 in the impact incarceration program.

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

9 (4) When the Department lets bids for contracts for food
10 or commissary services to be provided to Department
11 facilities, the bid may only be let to a food or commissary
12 services provider that has obtained an irrevocable letter of
13 credit or performance bond issued by a company whose bonds
14 have an investment grade or higher rating by a bond rating
15 organization.

16 (5) On and after the date 6 months after August 16, 2013
17 (the effective date of Public Act 98-488), as provided in the
18 Executive Order 1 (2012) Implementation Act, all of the
19 powers, duties, rights, and responsibilities related to State
20 healthcare purchasing under this Code that were transferred
21 from the Department of Corrections to the Department of
22 Healthcare and Family Services by Executive Order 3 (2005) are
23 transferred back to the Department of Corrections; however,
24 powers, duties, rights, and responsibilities related to State
25 healthcare purchasing under this Code that were exercised by
26 the Department of Corrections before the effective date of

1 Executive Order 3 (2005) but that pertain to individuals
2 resident in facilities operated by the Department of Juvenile
3 Justice are transferred to the Department of Juvenile Justice.
4 (Source: P.A. 101-235, eff. 1-1-20; 102-350, eff. 8-13-21;
5 102-535, eff. 1-1-22; 102-538, eff. 8-20-21; 102-813, eff.
6 5-13-22; 102-1030, eff. 5-27-22.)".