

1 AN ACT concerning the Department of Corrections.

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 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
12 of this State for care, custody, treatment and
13 rehabilitation.

14 (b) To develop and maintain reception and
15 evaluation units for purposes of analyzing the custody
16 and rehabilitation needs of persons committed to it and
17 to assign such persons to institutions and programs under
18 its control or transfer them to other appropriate
19 agencies. In consultation with the Department of
20 Alcoholism and Substance Abuse (now the Department of
21 Human Services), the Department of Corrections shall
22 develop a master plan for the screening and evaluation of
23 persons committed to its custody who have alcohol or drug
24 abuse problems, and for making appropriate treatment
25 available to such persons; the Department shall report to
26 the General Assembly on such plan not later than April 1,
27 1987. The maintenance and implementation of such plan
28 shall be contingent upon the availability of funds.

29 (b-1) To create and implement, on January 1, 2002,
30 a pilot program to establish the effectiveness of
31 pupillometer technology (the measurement of the pupil's

1 reaction to light) as an alternative to a urine test for
2 purposes of screening and evaluating persons committed to
3 its custody who have alcohol or drug problems. The
4 program shall require pupillometer technology to be used
5 in at least 50% of all screening and evaluation tests
6 performed. The Department must report to the General
7 Assembly on the effectiveness of the program on January
8 1, 2003.

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

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

25 Pursuant to its power to establish new institutions
26 and facilities, the Department may authorize the
27 Department of Central Management Services to accept bids
28 from counties and municipalities for the construction,
29 remodeling or conversion of a structure to be leased to
30 the Department of Corrections for the purposes of its
31 serving as a correctional institution or facility. Such
32 construction, remodeling or conversion may be financed
33 with revenue bonds issued pursuant to the Industrial
34 Building Revenue Bond Act by the municipality or county.

1 The lease specified in a bid shall be for a term of not
2 less than the time needed to retire any revenue bonds
3 used to finance the project, but not to exceed 40 years.
4 The lease may grant to the State the option to purchase
5 the structure outright.

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

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

27 (d) To develop and maintain programs of control,
28 rehabilitation and employment of committed persons within
29 its institutions.

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

32 (f) To establish in cooperation with the Department
33 of Transportation to supply a sufficient number of
34 prisoners for use by the Department of Transportation to

1 clean up the trash and garbage along State, county,
2 township, or municipal highways as designated by the
3 Department of Transportation. The Department of
4 Corrections, at the request of the Department of
5 Transportation, shall furnish such prisoners at least
6 annually for a period to be agreed upon between the
7 Director of Corrections and the Director of
8 Transportation. The prisoners used on this program shall
9 be selected by the Director of Corrections on whatever
10 basis he deems proper in consideration of their term,
11 behavior and earned eligibility to participate in such
12 program - where they will be outside of the prison
13 facility but still in the custody of the Department of
14 Corrections. Prisoners convicted of first degree murder,
15 or a Class X felony, or armed violence, or aggravated
16 kidnapping, or criminal sexual assault, aggravated
17 criminal sexual abuse or a subsequent conviction for
18 criminal sexual abuse, or forcible detention, or arson,
19 or a prisoner adjudged a Habitual Criminal shall not be
20 eligible for selection to participate in such program.
21 The prisoners shall remain as prisoners in the custody of
22 the Department of Corrections and such Department shall
23 furnish whatever security is necessary. The Department of
24 Transportation shall furnish trucks and equipment for the
25 highway cleanup program and personnel to supervise and
26 direct the program. Neither the Department of Corrections
27 nor the Department of Transportation shall replace any
28 regular employee with a prisoner.

29 (g) To maintain records of persons committed to it
30 and to establish programs of research, statistics and
31 planning.

32 (h) To investigate the grievances of any person
33 committed to the Department, to inquire into any alleged
34 misconduct by employees or committed persons, and to

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

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

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

33 (j) To cooperate with other departments and
34 agencies and with local communities for the development

1 of standards and programs for better correctional
2 services in this State.

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

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

8 (l-5) In a confidential annual report to the
9 Governor, the Department shall identify all inmate gangs
10 by specifying each current gang's name, population and
11 allied gangs. The Department shall further specify the
12 number of top leaders identified by the Department for
13 each gang during the past year, and the measures taken by
14 the Department to segregate each leader from his or her
15 gang and allied gangs. The Department shall further
16 report the current status of leaders identified and
17 segregated in previous years. All leaders described in
18 the report shall be identified by inmate number or other
19 designation to enable tracking, auditing, and
20 verification without revealing the names of the leaders.
21 Because this report contains law enforcement intelligence
22 information collected by the Department, the report is
23 confidential and not subject to public disclosure.

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

26 (n) To establish rules and regulations for
27 administering a system of good conduct credits,
28 established in accordance with Section 3-6-3, subject to
29 review by the Prisoner Review Board.

30 (o) To administer the distribution of funds from
31 the State Treasury to reimburse counties where State
32 penal institutions are located for the payment of
33 assistant state's attorneys' salaries under Section
34 4-2001 of the Counties Code.

1 (p) To exchange information with the Department of
2 Human Services and the Illinois Department of Public Aid
3 for the purpose of verifying living arrangements and for
4 other purposes directly connected with the administration
5 of this Code and the Illinois Public Aid Code.

6 (q) To establish a diversion program.

7 The program shall provide a structured environment
8 for selected technical parole or mandatory supervised
9 release violators and committed persons who have violated
10 the rules governing their conduct while in work release.
11 This 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
23 board at the facility on a sliding-scale basis
24 according to the participant's income.

25 (4) Each participant shall:

26 (A) provide restitution to victims in
27 accordance with any court order;

28 (B) provide financial support to his
29 dependents; and

30 (C) make appropriate payments toward any
31 other court-ordered obligations.

32 (5) Each participant shall complete community
33 service in addition to employment.

34 (6) Participants shall take part in such

1 counseling, educational and other programs as the
2 Department may deem appropriate.

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

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

7 (r) To enter into intergovernmental cooperation
8 agreements under which persons in the custody of the
9 Department may participate in a county impact
10 incarceration program established under Section 3-6038 or
11 3-15003.5 of the Counties Code.

12 (r-5) To enter into intergovernmental cooperation
13 agreements under which minors adjudicated delinquent and
14 committed to the Department of Corrections, Juvenile
15 Division, may participate in a county juvenile impact
16 incarceration program established under Section 3-6039 of
17 the Counties Code.

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

- 30 (i) are members of a criminal streetgang;
- 31 (ii) with respect to other individuals within
- 32 the streetgang, occupy a position of organizer,
- 33 supervisor, or other position of management or
- 34 leadership; and

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

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

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

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

26 As used in this subdivision (1)(t), "unprivileged
27 conversation" or "unprivileged communication" means a
28 conversation or communication that is not protected by
29 any privilege recognized by law or by decision, rule, or
30 order of the Illinois Supreme Court.

31 (u) To establish a Women's and Children's
32 Pre-release Community Supervision Program for the purpose
33 of providing housing and services to eligible female
34 inmates, as determined by the Department, and their

1 newborn and young children.

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

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

9 (Source: P.A. 90-14, eff. 7-1-97; 90-590, eff. 1-1-99;
10 90-658, eff. 1-1-99; 91-239, eff. 1-1-00; 91-357, eff.
11 7-29-99.)