



Rep. Robyn Gabel

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LRB100 10538 KTG 24190 a

1 AMENDMENT TO HOUSE BILL 3699

2 AMENDMENT NO. _____. Amend House Bill 3699 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Alcoholism and Other Drug Abuse and
5 Dependency Act is amended by changing Sections 40-5, 40-10, and
6 40-15 as follows:

7 (20 ILCS 301/40-5)

8 Sec. 40-5. Election of treatment. An individual with a
9 mental illness, as defined by Section 1-129 of the Mental
10 Health and Developmental Disabilities Code, or an ~~An~~ addict or
11 alcoholic who is charged with or convicted of a crime or any
12 other person charged with or convicted of a misdemeanor
13 violation of the Use of Intoxicating Compounds Act and who has
14 not been previously convicted of a violation of that Act may
15 elect treatment under the supervision of a licensed program
16 designated by the Department, referred to in this Article as

1 "designated program", unless:

2 (1) the crime is a crime of violence;

3 (2) the crime is a violation of Section 401(a), 401(b),
4 401(c) where the person electing treatment has been
5 previously convicted of a non-probationable felony or the
6 violation is non-probationable, 401(d) where the violation
7 is non-probationable, 401.1, 402(a), 405 or 407 of the
8 Illinois Controlled Substances Act, or Section 12-7.3 of
9 the Criminal Code of 2012, or Section 4(d), 4(e), 4(f),
10 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the Cannabis
11 Control Act or Section 15, 20, 55, 60(b)(3), 60(b)(4),
12 60(b)(5), 60(b)(6), or 65 of the Methamphetamine Control
13 and Community Protection Act or is otherwise ineligible for
14 probation under Section 70 of the Methamphetamine Control
15 and Community Protection Act;

16 (3) the person has a record of 2 or more convictions of
17 a crime of violence;

18 (4) other criminal proceedings alleging commission of
19 a felony are pending against the person;

20 (5) the person is on probation or parole and the
21 appropriate parole or probation authority does not consent
22 to that election;

23 (6) the person elected and was admitted to a designated
24 program on 2 prior occasions within any consecutive 2-year
25 period;

26 (7) the person has been convicted of residential

1 burglary and has a record of one or more felony
2 convictions;

3 (8) the crime is a violation of Section 11-501 of the
4 Illinois Vehicle Code or a similar provision of a local
5 ordinance; or

6 (9) the crime is a reckless homicide or a reckless
7 homicide of an unborn child, as defined in Section 9-3 or
8 9-3.2 of the Criminal Code of 1961 or the Criminal Code of
9 2012, in which the cause of death consists of the driving
10 of a motor vehicle by a person under the influence of
11 alcohol or any other drug or drugs at the time of the
12 violation.

13 Nothing in this Section shall preclude an individual who is
14 charged with or convicted of a crime that is a violation of
15 Section 60(b)(1) or 60(b)(2) of the Methamphetamine Control and
16 Community Protection Act, and who is otherwise eligible to make
17 the election provided for under this Section, from being
18 eligible to make an election for treatment as a condition of
19 probation as provided for under this Article.

20 (Source: P.A. 98-896, eff. 1-1-15; 98-1124, eff. 8-26-14;
21 99-78, eff. 7-20-15.)

22 (20 ILCS 301/40-10)

23 Sec. 40-10. Treatment as a condition of probation.

24 (a) If a court has reason to believe that an individual who
25 is charged with or convicted of a crime suffers from mental

1 illness, alcoholism, or other drug addiction and the court
2 finds that he is eligible to make the election provided for
3 under Section 40-5, the court shall advise the individual that
4 he or she may be sentenced to probation and shall be subject to
5 terms and conditions of probation under Section 5-6-3 of the
6 Unified Code of Corrections if he or she elects to submit to
7 treatment and is accepted for treatment by a designated
8 program. The court shall further advise the individual that:

9 (1) if he or she elects to submit to treatment and is
10 accepted he or she shall be sentenced to probation and
11 placed under the supervision of the designated program for
12 a period not to exceed the maximum sentence that could be
13 imposed for his conviction or 5 years, whichever is less.

14 (2) during probation he or she may be treated at the
15 discretion of the designated program.

16 (3) if he or she adheres to the requirements of the
17 designated program and fulfills the other conditions of
18 probation ordered by the court, he or she will be
19 discharged, but any failure to adhere to the requirements
20 of the designated program is a breach of probation.

21 The court may certify an individual for treatment while on
22 probation under the supervision of a designated program and
23 probation authorities regardless of the election of the
24 individual.

25 (b) If the individual elects to undergo treatment or is
26 certified for treatment, the court shall order an examination

1 by a designated program to determine whether he suffers from
2 mental illness, alcoholism, or other drug addiction and is
3 likely to be rehabilitated through treatment. The designated
4 program shall report to the court the results of the
5 examination and recommend whether the individual should be
6 placed for treatment. If the court, on the basis of the report
7 and other information, finds that such an individual suffers
8 from mental illness, alcoholism, or other drug addiction and is
9 likely to be rehabilitated through treatment, the individual
10 shall be placed on probation and under the supervision of a
11 designated program for treatment and under the supervision of
12 the proper probation authorities for probation supervision
13 unless, giving consideration to the nature and circumstances of
14 the offense and to the history, character and condition of the
15 individual, the court is of the opinion that no significant
16 relationship exists between the mental illness, addiction, or
17 alcoholism of the individual and the crime committed, or that
18 his imprisonment or periodic imprisonment is necessary for the
19 protection of the public, and the court specifies on the record
20 the particular evidence, information or other reasons that form
21 the basis of such opinion. However, under no circumstances
22 shall the individual be placed under the supervision of a
23 designated program for treatment before the entry of a judgment
24 of conviction.

25 (c) If the court, on the basis of the report or other
26 information, finds that the individual suffering from mental

1 illness, alcoholism, or other drug addiction is not likely to
2 be rehabilitated through treatment, or that his mental illness,
3 addiction, or alcoholism and the crime committed are not
4 significantly related, or that his imprisonment or periodic
5 imprisonment is necessary for the protection of the public, the
6 court shall impose sentence as in other cases. The court may
7 require such progress reports on the individual from the
8 probation officer and designated program as the court finds
9 necessary. No individual may be placed under treatment
10 supervision unless a designated program accepts him for
11 treatment.

12 (d) Failure of an individual placed on probation and under
13 the supervision of a designated program to observe the
14 requirements set down by the designated program shall be
15 considered a probation violation. Such failure shall be
16 reported by the designated program to the probation officer in
17 charge of the individual and treated in accordance with
18 probation regulations.

19 (e) Upon successful fulfillment of the terms and conditions
20 of probation the court shall discharge the person from
21 probation. If the person has not previously been convicted of
22 any felony offense and has not previously been granted a
23 vacation of judgment under this Section, upon motion, the court
24 shall vacate the judgment of conviction and dismiss the
25 criminal proceedings against him unless, having considered the
26 nature and circumstances of the offense and the history,

1 character and condition of the individual, the court finds that
2 the motion should not be granted. Unless good cause is shown,
3 such motion to vacate must be filed at any time from the date
4 of the entry of the judgment to a date that is not more than 60
5 days after the discharge of the probation.

6 (Source: P.A. 99-574, eff. 1-1-17.)

7 (20 ILCS 301/40-15)

8 Sec. 40-15. Acceptance for treatment as a parole or
9 aftercare release condition. Acceptance for treatment for
10 mental illness, drug addiction, or alcoholism under the
11 supervision of a designated program may be made a condition of
12 parole or aftercare release, and failure to comply with such
13 treatment may be treated as a violation of parole or aftercare
14 release. A designated program shall establish the conditions
15 under which a parolee or releasee is accepted for treatment. No
16 parolee or releasee may be placed under the supervision of a
17 designated program for treatment unless the designated program
18 accepts him or her for treatment. The designated program shall
19 make periodic progress reports regarding each such parolee or
20 releasee to the appropriate parole authority and shall report
21 failures to comply with the prescribed treatment program.

22 (Source: P.A. 98-558, eff. 1-1-14.)".