

1 AN ACT concerning criminal law.

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

4 Section 5. The Drug Court Treatment Act is amended by
5 changing Sections 5, 10, 15, 20, 25, 30, 35, 40, 45, and 50 as
6 follows:

7 (730 ILCS 166/5)

8 Sec. 5. Purposes. The General Assembly recognizes that
9 individuals struggling with substance use disorders may come
10 into contact with the criminal justice system and be charged
11 with felony or misdemeanor offenses. The General Assembly also
12 recognizes that substance use disorders and mental illness
13 co-occur in a substantial percentage of criminal defendants.
14 ~~the use and abuse of drugs has a dramatic effect on the~~
15 ~~criminal justice system in the State of Illinois.~~ There is a
16 critical need for the criminal justice system to recognize
17 individuals struggling with these issues, provide alternatives
18 to incarceration to address substance use disorders ~~a criminal~~
19 ~~justice system program that will reduce the incidence of drug~~
20 ~~use, drug addiction,~~ and provide appropriate access to
21 treatment and support to such persons. ~~crimes committed as a~~
22 ~~result of drug use and drug addiction.~~ It is the intent of the
23 General Assembly to create specialized drug courts, in

1 accordance with evidence-based practices, and Illinois Supreme
2 Court Standards for addressing substance use and co-occurring
3 disorders with the necessary flexibility to meet the needs for
4 an array of services and supports among participants in drug
5 court programs ~~problems~~ in the State of Illinois.

6 (Source: P.A. 92-58, eff. 1-1-02.)

7 (730 ILCS 166/10)

8 Sec. 10. Definitions. As used in this Act:

9 "Drug court", "drug court program", "court", or "program"
10 means a specially designated court, court calendar or docket
11 facilitating intensive therapeutic treatment to monitor and
12 assist participants with ~~an immediate and highly structured~~
13 ~~judicial intervention process for~~ substance use disorder. Drug
14 court programs are nonadversarial in nature and bring ~~abuse~~
15 ~~treatment of eligible defendants that brings~~ together
16 substance use disorder ~~abuse~~ professionals, and local social
17 programs, ~~and intensive judicial monitoring~~ in accordance with
18 the nationally recommended 10 key components of drug courts
19 and Illinois Supreme Court Problem-Solving Court Standards.
20 Common features of drug court programs include, but are not
21 limited to, a designated judge and staff; specialized intake
22 and screening procedures; coordinated treatment procedures
23 administered by a trained, multidisciplinary professional
24 team; close evaluation of participants, including continued
25 assessments and modification of the court requirements and use

1 of sanctions, incentives and therapeutic adjustments to
2 address behavior; frequent judicial interaction with
3 participants; less formal court process and procedures;
4 voluntary participation; and a low treatment staff-to-client
5 ratio.

6 "Drug court professional" means a member of the drug court
7 team, including but not limited to a judge, prosecutor,
8 defense attorney, probation officer, coordinator, treatment
9 provider, or an equivalent standard in any other state where
10 treatment may take place, or peer recovery coach.

11 "Pre-adjudicatory drug court program" means a program that
12 allows the defendant, with their agreement, and with the
13 consent of the prosecution, to enter the drug court program
14 before plea, conviction, or disposition, expedite the
15 ~~defendant's criminal case before conviction or before filing~~
16 ~~of a criminal case and~~ requires successful completion of the
17 drug court program as part of the agreement.

18 "Post-adjudicatory drug court program" means a program
19 that allows an individual who ~~in which the defendant~~ has
20 admitted guilt or has been found guilty and agrees, along with
21 the prosecution, to enter a drug court program as part of the
22 defendant's sentence.

23 "Combination drug court program" means a drug court
24 program that includes a pre-adjudicatory drug court program
25 and a post-adjudicatory drug court program.

26 "Co-occurring mental health and substance use court

1 program" means a program that includes persons with
2 co-occurring mental illness and substance use disorder. Such
3 programs shall include professionals with training and
4 experience in treating persons with substance use disorders
5 and mental illness.

6 "Problem-Solving Courts (PSC) Standards" means the
7 statewide Standards Adopted by the Illinois Supreme Court
8 which set forth the minimum requirements for the planning,
9 establishment, certification, operation and evaluation of all
10 problem-solving courts in Illinois.

11 "Certification" means the process by which a
12 problem-solving court obtains approval from the Supreme Court
13 to operate in accordance with the Problem-Solving Court
14 Standards.

15 "Clinical treatment plan" means an evidence-based,
16 comprehensive, and individualized plan that is developed by a
17 qualified professional in accordance with IDHS/SUPR
18 regulations contained in Part 2060 of Title 77 of the Illinois
19 Administrative Code or an equivalent standard in any other
20 state where treatment may take place. The clinical treatment
21 plan shall define the scope of treatment services to be
22 delivered by a court treatment provider.

23 "Validated clinical assessment" may include assessment
24 tools required by public or private insurance.

25 "Peer recovery coach" means a mentor assigned to a
26 defendant during participation in a drug treatment court

1 program who has been trained by the court, a service provider
2 used by the court for substance use disorder or mental health
3 treatment, a local service provider with established peer
4 recovery coach or mentor programs not otherwise used by the
5 court for treatment, or be a Certified Recovery Support
6 Specialist (CRSS) certified by the Illinois Certification
7 Board. Peer recovery coaches should be individuals with lived
8 experiences of the issues problem-solving courts seek to
9 address, including but not limited to substance use disorders,
10 mental health and co-occurring disorders, and involvement with
11 the criminal justice system. Peer recovery coaches shall guide
12 and mentor the participant to successfully complete assigned
13 requirements and work to help facilitate participants'
14 independence for continued success once the supports of the
15 court are no longer available to them.

16 "Community mental health center" means an entity: (1)
17 licensed by the Illinois Department of Public Health as a
18 community mental health center in accordance with the
19 conditions of participation for community mental health
20 centers established by the Centers for Medicare and Medicaid
21 Services; and (2) that provides outpatient services, including
22 specialized outpatient services, for individuals who are
23 chronically mentally ill.

24 "Community behavioral health center" means a physical site
25 where behavioral healthcare services are provided in
26 accordance with the Community Behavioral Health Center

1 Infrastructure Act.

2 (Source: P.A. 97-946, eff. 8-13-12.)

3 (730 ILCS 166/15)

4 Sec. 15. Authorization.

5 (a) The Chief Judge of each judicial circuit ~~may~~ ~~must~~
6 establish a drug court program in compliance with the
7 Problem-Solving Court Standards. At the discretion of the
8 Chief Judge, the drug court program may be operated in one or
9 more counties of the circuit and allow the defendants from all
10 counties within the circuit to participate. Drug court
11 programs must be certified by the Supreme Court ~~including the~~
12 ~~format under which it operates under this Act.~~

13 (b) Whenever the county boards of 2 or more counties
14 within the same judicial circuit shall determine that a single
15 drug court program would best serve those counties, the county
16 board of each such county shall adopt a resolution to the
17 effect that there shall be a single drug court program serving
18 those counties, and shall provide a copy of the resolution to
19 the Chief Judge of the judicial circuit. Upon receipt of those
20 resolutions, the Chief Judge shall establish or, in the case
21 of an existing drug court program, re-organize a single drug
22 court program to serve those counties.

23 (c) (Blank). ~~Upon petition of the county board by the~~
24 ~~State's Attorney, the court may, for good cause shown of~~
25 ~~financial hardship or lack of necessary resources, enter an~~

1 ~~order delaying the implementation of the requirements of~~
2 ~~subsection (a) of this Section for an individual county, for a~~
3 ~~period not to exceed 2 years.~~

4 (Source: P.A. 96-776, eff. 1-1-10.)

5 (730 ILCS 166/20)

6 Sec. 20. Eligibility.

7 (a) A defendant may be admitted into a drug court program
8 only upon the agreement of the defendant and with the approval
9 of the court. A defendant agrees to be admitted when a Written
10 Consent to Participate is provided to the Court in open court
11 and the defendant acknowledges understanding its contents.

12 (a-5) Each drug court shall have a target population
13 defined in its written Policies and Procedures. The Policies
14 and Procedures shall define that court's eligibility and
15 exclusionary criteria.

16 (b) A defendant shall be excluded from a drug court
17 program if any of one of the following apply:

18 (1) The crime is a crime of violence as set forth in
19 clause (4) of this subsection (b).

20 (2) The defendant denies his or her use of or
21 addiction to drugs.

22 (3) The defendant does not demonstrate a willingness
23 to participate in a treatment program.

24 (4) The defendant has been convicted of a crime of
25 violence within the past 5 ~~10~~ years excluding

1 incarceration time. As used in this Section, "crime of
2 violence" means: first degree murder, second degree
3 murder, predatory criminal sexual assault of a child,
4 aggravated criminal sexual assault, criminal sexual
5 assault, armed robbery, aggravated arson, arson,
6 aggravated kidnaping, kidnaping, aggravated battery
7 resulting in great bodily harm or permanent disability,
8 aggravated domestic battery resulting in great bodily harm
9 or permanent disability, aggravated criminal sexual abuse
10 by a person in a position of trust or authority over a
11 child, stalking, or aggravated stalking, ~~or any offense~~
12 ~~involving the discharge of a firearm.~~

13 (5) The crime for which the defendant has been
14 convicted is nonprobationable.

15 (6) The sentence imposed on the defendant, whether the
16 result of a plea or a finding of guilt, renders the
17 defendant ineligible for probation.

18 (c) Notwithstanding subsection (a), the defendant may be
19 admitted into a drug court program only upon the agreement of
20 the prosecutor if:

21 (1) the defendant is charged with a Class 2 or greater
22 felony violation of:

23 (A) Section 401, 401.1, 405, or 405.2 of the
24 Illinois Controlled Substances Act;

25 (B) Section 5, 5.1, or 5.2 of the Cannabis Control
26 Act; or

1 (C) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56,
2 or 65 of the Methamphetamine Control and Community
3 Protection Act., ~~or~~

4 ~~(2) the defendant has previously, on 3 or more~~
5 ~~occasions, either completed a drug court program, been~~
6 ~~discharged from a drug court program, or been terminated~~
7 ~~from a drug court program.~~

8 (Source: P.A. 99-480, eff. 9-9-15.)

9 (730 ILCS 166/25)

10 Sec. 25. Procedure.

11 (a) ~~A The court shall order an eligibility screening and~~
12 ~~needs an~~ assessment of the defendant shall be performed as
13 required by the Court's Policies and Procedures by an agent
14 designated by the State of Illinois to provide assessment
15 services for the Illinois Courts. The assessment shall be
16 conducted in accordance with IDHS/SUPR regulations contained
17 in Part 2060 of Title 77 of the Illinois Administrative Code.
18 The assessment shall include, but not be limited to,
19 assessments of substance use, mental and behavioral health
20 needs. The assessment shall be administered by individuals who
21 meet the IDHS/SUPR regulations for professional staff
22 contained in Part 2060 of Title 77 of the Illinois
23 Administrative Code and used to inform any Clinical Treatment
24 Plans. Clinical Treatment Plans shall be developed in
25 accordance with Illinois PSC Standards and, in part, upon the

1 known availability of treatment resources. An assessment need
2 not be ordered if the court finds a valid assessment related to
3 the present charge pending against the defendant has been
4 completed within the previous 60 days.

5 (b) The judge shall inform the defendant that if the
6 defendant fails to meet the conditions of the drug court
7 program, eligibility to participate in the program may be
8 revoked and the defendant may be sentenced or the prosecution
9 continued as provided in the Unified Code of Corrections for
10 the crime charged.

11 (c) The defendant shall execute a written agreement as to
12 his or her participation in the program and shall agree to all
13 of the terms and conditions of the program, including but not
14 limited to the possibility of sanctions or incarceration for
15 failing to abide or comply with the terms of the program.

16 (d) In addition to any conditions authorized under the
17 Pretrial Services Act and Section 5-6-3 of the Unified Code of
18 Corrections, the court may order the defendant to complete
19 substance use disorder ~~abuse~~ treatment in an outpatient,
20 inpatient, residential, or jail-based custodial treatment
21 program, order the defendant to complete mental health
22 counseling in an inpatient or outpatient basis, comply with
23 physicians' recommendation regarding medications and all
24 follow up treatment for any mental health diagnosis made by
25 the provider. Substance use disorder treatment programs must
26 be licensed by IDHS/SUPR, or equivalent standards in any state

1 where treatment may be provided, and use evidence-based
2 treatment. When referring participants to mental health
3 treatment programs, the court shall prioritize providers
4 certified as community mental health or behavioral health
5 centers as possible. The court shall prioritize the least
6 restrictive treatment option when ordering mental health or
7 substance use disorder treatment for participants. The court
8 may order jail-based custodial treatment if it finds that
9 jail-based treatment is the least restrictive alternative
10 based on evidence that efforts were made to locate less
11 restrictive alternatives to secure confinement and the reasons
12 why efforts were unsuccessful in locating a less restrictive
13 alternative to jail-based custodial treatment. Any period of
14 time a defendant shall serve in a jail-based treatment program
15 may not be reduced by the accumulation of good time or other
16 credits and may be for a period of up to 120 days.

17 (e) The drug court program shall include a regimen of
18 graduated requirements ~~and rewards and sanctions, including~~
19 ~~but not limited to: fines, fees, costs, restitution,~~
20 ~~incarceration of up to 180 days,~~ individual and group therapy,
21 substance ~~drug~~ analysis testing, close monitoring by the
22 court, restitution ~~at a minimum of once every 30 days and~~
23 ~~supervision of progress,~~ educational or vocational counseling
24 as appropriate, and other requirements necessary to fulfill
25 the drug court program. Program phases, therapeutic
26 adjustments, incentives, and sanctions, including the use of

1 jail sanctions, shall be administered in accordance with
2 evidence-based practices and the Illinois PSC Standards. If
3 the defendant needs treatment for an opioid use disorder ~~abuse~~
4 or dependence, the court may not prohibit the defendant from
5 participating in and receiving medication assisted treatment
6 under the care of a physician licensed in this State to
7 practice medicine in all of its branches. Drug court
8 participants may not be required to refrain from using
9 medication assisted treatment as a term or condition of
10 successful completion of the drug court program.

11 (f) Recognizing that individuals struggling with mental
12 health, substance use, and related co-occurring disorders have
13 often experienced trauma, drug court programs may include
14 specialized service programs specifically designed to address
15 trauma. These specialized services may be offered to
16 defendants admitted to the drug court program. Judicial
17 circuits establishing these specialized programs shall partner
18 with advocates, survivors, and service providers in the
19 development of the programs. Trauma-informed services and
20 programming should be operated in accordance with
21 evidence-based practices as outlined by the Substance Abuse
22 and Mental Health Service Administration's National Center for
23 Trauma Informed Care (SAMHSA).

24 (g) The Court may establish a mentorship program that
25 provides access and support to program participants by peer
26 recovery coaches. Courts shall be responsible to administer

1 the mentorship program with the support of mentors and local
2 mental health and substance use disorder treatment
3 organizations.

4 (Source: P.A. 99-554, eff. 1-1-17.)

5 (730 ILCS 166/30)

6 Sec. 30. Mental health and substance use disorder
7 ~~Substance abuse~~ treatment.

8 (a) The drug court program shall maintain a network of
9 substance use disorder ~~abuse~~ treatment programs representing a
10 continuum of graduated substance use disorder ~~abuse~~ treatment
11 options commensurate with the needs of defendants.

12 (b) Any substance use disorder ~~abuse~~ treatment program to
13 which defendants are referred must be licensed by IDHS/SUPR,
14 use evidence-based treatment, and deliver all services in
15 accordance with the regulations contained in Part ~~meet all of~~
16 ~~the rules and governing programs in Parts 2030 and 2060 of~~
17 Title 77 of the Illinois Administrative Code.

18 (c) The drug court program may, at its discretion, employ
19 additional services or interventions, as it deems necessary on
20 a case by case basis.

21 (d) The drug court program may maintain or collaborate
22 with a network of mental health treatment programs
23 representing a continuum of treatment options commensurate
24 with the needs of the defendant and available resources
25 including programs with the State of Illinois and

1 community-based programs supported and sanctioned by the State
2 of Illinois. Partnerships with providers certified as
3 community mental health or behavioral health centers shall be
4 prioritized when possible.

5 (Source: P.A. 92-58, eff. 1-1-02.)

6 (730 ILCS 166/35)

7 Sec. 35. Violation; termination; discharge.

8 (a) If the court finds from the evidence presented
9 including but not limited to the reports or proffers of proof
10 from the drug court professionals that:

11 (1) the defendant is not complying with the
12 requirements of the treatment ~~performing satisfactorily in~~
13 ~~the assigned~~ program;

14 (2) (blank); ~~the defendant is not benefitting from~~
15 ~~education, treatment, or rehabilitation;~~

16 (3) the defendant has engaged in criminal conduct
17 rendering him or her unsuitable for the program; or

18 (4) the defendant has otherwise violated the terms and
19 conditions of the program ~~or his or her sentence or is for~~
20 ~~any reason unable to participate;~~

21 the court may impose reasonable sanctions under prior written
22 agreement of the defendant, including but not limited to
23 imprisonment or dismissal of the defendant from the program
24 and the court may reinstate criminal proceedings against the
25 defendant ~~him or her~~ or proceed under Section 5-6-4 of the

1 Unified Code of Corrections for a violation of probation,
2 conditional discharge, or supervision hearing. Based on the
3 evidence presented, the court shall determine whether the
4 defendant has violated the conditions of the program and
5 whether the defendant should be dismissed from the program or
6 whether, pursuant to the court's Policies and Procedures, some
7 other alternative may be appropriate in the interests of the
8 defendant and the public.

9 (a-5) A defendant who is assigned to a substance use
10 disorder ~~abuse~~ treatment program under this Act for an opioid
11 use disorder ~~abuse or dependence~~ is not in violation of the
12 terms or conditions of the program on the basis of his or her
13 participation in medication assisted treatment under the care
14 of a physician licensed in this State to practice medicine in
15 all of its branches.

16 (a-10) A defendant may voluntarily withdraw from the drug
17 court Program in accordance with the drug court program's
18 policies and procedures. Prior to allowing the participant to
19 withdraw, the judge shall:

20 (i) ensure that the participant has the right to
21 consult with counsel prior to withdrawal;

22 (ii) determine in open court that the withdrawal is
23 made voluntarily and knowingly; and

24 (iii) admonish the participant in open court as to the
25 consequences, actual or potential, which can result from
26 withdrawal.

1 Upon withdrawal, the criminal proceedings may be
2 reinstated against the defendant or proceedings under Section
3 5-6-4 of the Unified Code of Corrections for a violation of
4 probation, conditional discharge, or supervision hearing may
5 be initiated.

6 (a-15) No defendant may be dismissed from the program
7 unless, prior to such dismissal, the defendant is informed in
8 writing:

9 (i) of the reason or reasons for the dismissal;

10 (ii) the evidentiary basis supporting the reason or
11 reasons for the dismissal;

12 (iii) that the defendant has a right to a hearing at
13 which he or she may present evidence supporting his or her
14 continuation in the program.

15 (b) Upon successful completion of the terms and conditions
16 of the program, the court may dismiss the original charges
17 against the defendant or successfully terminate the
18 defendant's sentence or otherwise discharge him or her from
19 any further proceedings against the defendant ~~him or her~~ in
20 the original prosecution.

21 (c) Upon successful completion of the terms and conditions
22 of the program, any State's Attorney in the county of
23 conviction may move to vacate convictions held by the
24 defendant that are eligible for sealing under the Criminal
25 Identification Act. Participants may immediately file
26 petitions to expunge vacated convictions and the associated

1 underlying records per the Criminal Identification Act. In
2 cases where the State's Attorney moves to vacate a conviction,
3 the State's Attorney may not object to expungement of that
4 conviction or the underlying record.

5 (d) The drug court program may maintain or collaborate
6 with a network of legal aid organizations that specialize in
7 conviction relief to support participants navigating the
8 expungement and sealing process.

9 (Source: P.A. 99-554, eff. 1-1-17.)

10 (730 ILCS 166/40)

11 Sec. 40. Education ~~seminars~~ for judges. A judge assigned
12 to preside over a PSC should have experience and training and
13 continuing education in topics including, but not limited to:
14 (1) criminal law; (2) behavioral health; (3) confidentiality;
15 (4) ethics; (5) evidence-based practices; (6) substance use
16 disorders; (7) mental illness; (8) co-occurring disorders; and
17 (9) presiding over various types of PSCs. ~~The Administrative~~
18 ~~Office of the Illinois Courts shall conduct education seminars~~
19 ~~for judges throughout the State on how to operate drug court~~
20 ~~programs with a specific emphasis on cases involving the~~
21 ~~illegal possession of methamphetamine.~~

22 (Source: P.A. 94-552, eff. 8-12-05.)

23 (730 ILCS 166/45)

24 Sec. 45. Education seminars for drug court prosecutors.

1 Subject to appropriation, the Office of the State's Attorneys
2 Appellate Prosecutor shall conduct mandatory education
3 seminars ~~on the subjects of substance abuse and addiction~~ for
4 all drug court prosecutors throughout the State to ensure that
5 the PSC maintains fidelity to the PSC model. Topics include,
6 but are not limited to, evidence-based screening, assessment
7 and treatment practices, target population, substance use
8 disorders, mental illness, disability, co-occurring disorders,
9 trauma, confidentiality, criminogenic risks and needs,
10 incentives and sanctions, court processes, limited English
11 proficiency and team dynamics.

12 (Source: P.A. 99-480, eff. 9-9-15.)

13 (730 ILCS 166/50)

14 Sec. 50. Education seminars for Mental Health Court public
15 defenders. Subject to appropriation, the Office of the State
16 Appellate Defender shall conduct mandatory education seminars
17 ~~on the subjects of substance abuse and addiction~~ for all
18 public defenders and assistant public defenders practicing in
19 drug courts throughout the State to ensure that the PSC
20 maintains fidelity to the PSC model. Topics include, but are
21 not limited to, evidence-based screening, assessment and
22 treatment practices, target population, substance use
23 disorders, mental illness, disability, co-occurring disorders,
24 trauma, confidentiality, criminogenic risks and needs,
25 incentives and sanctions, court processes, limited English

1 proficiency and team dynamics.

2 (Source: P.A. 99-480, eff. 9-9-15.)

3 Section 10. The Veterans and Servicemembers Court
4 Treatment Act is amended by changing Sections 5, 10, 15, 20,
5 25, 30, 35, and by adding Sections 40, 45, and 50 as follows:

6 (730 ILCS 167/5)

7 Sec. 5. Purposes. The General Assembly recognizes that
8 veterans and active servicemembers, including Reserve and
9 National Guard servicemembers have provided or are currently
10 providing an invaluable service to our country. Some veterans
11 and active duty servicemembers ~~In so doing, some~~ may suffer
12 from the effects of their service, including but not limited
13 to, post traumatic stress disorder, traumatic brain injury,
14 depression and may also suffer ~~drug and alcohol dependency or~~
15 ~~addiction and~~ co-occurring mental illness and substance use
16 disorders ~~abuse problems~~. As a result ~~of this~~, some veterans
17 or active duty servicemembers come into contact with the
18 criminal justice system and are charged with felony or
19 misdemeanor offenses. There is a critical need for the
20 criminal justice system to recognize ~~these~~ veterans struggling
21 with these issues, provide accountability for their
22 wrongdoing, provide for the safety of the public and provide
23 for the treatment of such ~~our~~ veterans. It is the intent of the
24 General Assembly to create specialized veteran and

1 servicemember courts, in accordance with evidence-based
2 practices, and Illinois Supreme Court Standards for addressing
3 substance use, mental health and co-occurring disorders ~~or~~
4 ~~programs~~ with the necessary flexibility to meet the
5 specialized needs for an array of services and supports among
6 participants in ~~problems faced by these~~ veteran and
7 servicemember court programs in the State of Illinois
8 defendants.

9 (Source: P.A. 96-924, eff. 6-14-10.)

10 (730 ILCS 167/10)

11 Sec. 10. Definitions. In this Act:

12 "Certification" means the process by which a
13 problem-solving court obtains approval from the Supreme Court
14 to operate in accordance with the Problem-Solving Court
15 Standards.

16 "Clinical Treatment Plan" means an evidence-based,
17 comprehensive, and individualized plan developed by a
18 qualified professional in accordance with IDHS/SUPR
19 regulations contained in Part 2060 of Title 77 of the Illinois
20 Administrative Code, or an equivalent standard in any other
21 state where treatment may take place. The clinical treatment
22 plan shall define the scope of treatment services to be
23 delivered by a treatment provider.

24 "Combination Veterans and Servicemembers Court program"
25 means a court program that includes a pre-adjudicatory and a

1 post-adjudicatory Veterans and Servicemembers court program.

2 "IDVA" means the Illinois Department of Veterans' Affairs.

3 "Peer recovery coach" means a veteran mentor assigned to a
4 veteran or servicemember during participation in a veteran
5 treatment court program who has been trained by the court, a
6 service provider used by the court for substance use or mental
7 health treatment, a local service provider with established
8 peer recovery coach or mentor programs not otherwise used by
9 the court for treatment, or be a Certified Recovery Support
10 Specialist (CRSS) certified by the Illinois Certification
11 Board. Peer recovery coaches should be individuals with lived
12 experiences of the issues problem-solving courts seek to
13 address, including, but not limited to, substance use
14 disorders, mental health and co-occurring disorders and
15 involvement with the criminal justice system. Peer recovery
16 coaches shall guide and mentor the participant to successfully
17 complete assigned requirements and work to help facilitate
18 participants' independence for continued success once the
19 supports of the court are no longer available to them.

20 "Pre-adjudicatory Veterans and Servicemembers Court
21 Program" means a program that allows the defendant, who agrees
22 and with the consent of the prosecution, to enter the drug
23 court program before plea, conviction, or disposition, and
24 requires successful completion of the Veterans and
25 Servicemembers Court programs as part of the agreement.

26 "Post-adjudicatory Veterans and Servicemembers Court

1 Program" means a program that allows an individual who has
2 admitted guilt or has been found guilty and agrees, along with
3 the prosecution, to enter a Veterans and Servicemembers Court
4 program as part of the defendant's sentence.

5 "Problem-Solving Court Standards" means the statewide
6 Standards adopted by the Illinois Supreme Court which set
7 forth the minimum requirements for the planning,
8 establishment, certification, operation and evaluation of all
9 problem-solving courts in Illinois.

10 ~~"Court" means Veterans and Servicemembers Court.~~

11 ~~"IDVA" means the Illinois Department of Veterans' Affairs.~~

12 ~~"Peer recovery coach" means a volunteer veteran mentor~~
13 ~~assigned to a veteran or servicemember during participation in~~
14 ~~a veteran treatment court program who has been trained and~~
15 ~~certified by the court to guide and mentor the participant to~~
16 ~~successfully complete the assigned requirements.~~

17 ~~"Post adjudicatory Veterans and Servicemembers Court~~
18 ~~Program" means a program in which the defendant has admitted~~
19 ~~guilt or has been found guilty and agrees, along with the~~
20 ~~prosecution, to enter a Veterans and Servicemembers Court~~
21 ~~program as part of the defendant's sentence.~~

22 ~~"Pre adjudicatory Veterans and Servicemembers Court~~
23 ~~Program" means a program that allows the defendant with the~~
24 ~~consent of the prosecution, to expedite the defendant's~~
25 ~~criminal case before conviction or before filing of a criminal~~
26 ~~case and requires successful completion of the Veterans and~~

1 ~~Servicemembers Court programs as part of the agreement.~~

2 "Servicemember" means a person who is currently serving in
3 the Army, Air Force, Marines, Navy, or Coast Guard on active
4 duty, reserve status or in the National Guard.

5 "VA" means the United States Department of Veterans'
6 Affairs.

7 "VAC" means a veterans assistance commission.

8 "Validated Clinical Assessment" may include assessment
9 tools required by public or private insurance.

10 "Veteran" means a person who served in the active
11 military, naval, or air service and who was discharged or
12 released therefrom under conditions other than dishonorable.

13 ~~"Veterans and Servicemembers Court professional" means a~~
14 ~~member of the Veterans and Servicemembers Court team,~~
15 ~~including but not limited to a judge, prosecutor, defense~~
16 ~~attorney, probation officer, coordinator, treatment provider,~~
17 ~~or peer recovery coach.~~

18 ~~"Veterans and Servicemembers Court" means a court or~~
19 ~~program with an immediate and highly structured judicial~~
20 ~~intervention process for substance abuse treatment, mental~~
21 ~~health, or other assessed treatment needs of eligible veteran~~
22 ~~and servicemember defendants that brings together substance~~
23 ~~abuse professionals, mental health professionals, VA~~
24 ~~professionals, local social programs and intensive judicial~~
25 ~~monitoring in accordance with the nationally recommended 10~~
26 ~~key components of drug courts.~~

1 "Veterans and Servicemembers Court" "Veterans and
2 Servicemembers Court program", "court", or "program" for the
3 purposes of this Act means a specially designated court, court
4 calendar or docket facilitating intensive therapeutic
5 treatment to monitor or assist veteran or servicemember
6 participants with substance use disorders, mental health,
7 co-occurring disorders or other assessed treatment needs of
8 eligible veteran and servicemember participants. Veterans and
9 servicemember court programs are nonadversarial in nature and
10 bring together substance use disorder professionals, mental
11 health professionals, VA professionals, and local social
12 programs in accordance with the nationally recommended 10 key
13 components of drug courts and Illinois Supreme Court
14 Problem-Solving Court Standards. Common features of drug court
15 programs include, but are not limited to, a designated judge
16 and staff; specialized intake and screening procedures;
17 coordinated treatment procedures administered by a trained,
18 multidisciplinary professional team; close evaluation of
19 participants, including continued assessments and modification
20 of the court requirements and use of sanctions, incentives and
21 therapeutic adjustments to address behavior; frequent judicial
22 interaction with participants; less formal court process and
23 procedures; voluntary participation; and a low treatment
24 staff-to-client ratio.

25 "Veterans and Servicemembers Court professional" means a
26 member of the Veterans and Servicemembers Court team,

1 including but not limited to a judge, prosecutor, defense
2 attorney, probation officer, coordinator, treatment provider,
3 or peer recovery coach.

4 "Community Mental Health Center" means an entity licensed
5 by the Illinois Department of Public Health as a Community
6 Mental Health Center in accordance with the conditions of
7 participation for Community Mental Health Centers established
8 by the Center for Medicare & Medicaid Services. Community
9 Mental Health Centers means an entity that provides outpatient
10 services, including specialized outpatient services for
11 individuals who are chronically mentally ill.

12 "Community Behavioral Health Center" means a physical site
13 where behavioral healthcare services are provided in
14 accordance with the Community Behavioral Health Center
15 Infrastructure Act.

16 (Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

17 (730 ILCS 167/15)

18 Sec. 15. Authorization.

19 (a) The Chief Judge of each judicial circuit may ~~shall~~
20 establish a Veterans and Servicemembers Court program in
21 compliance with the Problem-Solving Court Standards ~~including~~
22 a format under which it operates under this Act. The Veterans
23 and Servicemembers Court may, at the discretion of the Chief
24 Judge, be a separate court or a program of a problem-solving
25 court, including, but not limited to, a drug court, or mental

1 health court, or operate for defendants with either substance
2 use, mental health or co-occurring disorders. At the
3 discretion of the Chief Judge, the Veterans and Servicemembers
4 Court program may be operated in one or more counties in the
5 Circuit, and allow veteran and servicemember defendants from
6 all counties within the Circuit to participate.

7 (b) Whenever the county boards of 2 or more counties
8 within the same judicial circuit shall determine that a single
9 veterans and servicemembers court program would best serve
10 those counties, the county board of each such county shall
11 adopt a resolution to the effect that there shall be a single
12 veterans and servicemembers court program serving those
13 counties, and shall provide a copy of the resolution to the
14 Chief Judge of the judicial circuit. Upon receipt of those
15 resolutions, the Chief Judge shall establish, or, in the case
16 of an existing veterans and servicemembers court program,
17 re-organize a single veterans and servicemembers court program
18 to serve those counties.

19 (Source: P.A. 99-807, eff. 1-1-18; 100-88, eff. 1-1-18.)

20 (730 ILCS 167/20)

21 Sec. 20. Eligibility. Veterans and Servicemembers are
22 eligible for Veterans and Servicemembers Courts, provided the
23 following:

24 (a) A defendant may be admitted to a Veterans and
25 Servicemembers Court certified by the Illinois Supreme Court,

1 ~~who is eligible for probation based on the nature of the crime~~
2 ~~convicted of and in consideration of his or her criminal~~
3 ~~background, if any, may be admitted into a Veterans and~~
4 ~~Servicemembers Court program before adjudication only upon the~~
5 agreement of the defendant and with the approval of the Court.
6 Defendants agree to be admitted when a Written Consent to
7 Participate is provided to the Court in open court and the
8 defendant acknowledges understanding its contents ~~A defendant~~
9 ~~may be admitted into a Veterans and Servicemembers Court~~
10 ~~program post adjudication only with the approval of the court.~~

11 (b) Each Veterans and Servicemembers Court shall have a
12 targeted population defined in its written Policies and
13 Procedures. The Policies and Procedures shall define that
14 court's eligibility and exclusionary criteria. A defendant
15 shall be excluded from Veterans and Servicemembers Court
16 program if any of one of the following applies:

17 (1) The crime is a crime of violence as set forth in
18 clause (3) of this subsection (b).

19 (2) The defendant does not demonstrate a willingness
20 to participate in a treatment program.

21 (3) The defendant has been convicted of a crime of
22 violence within the past 5 ~~10~~ years excluding
23 incarceration time. As used in this Section, "crime of
24 violence" means: ~~including~~ first degree murder, second
25 degree murder, predatory criminal sexual assault of a
26 child, aggravated criminal sexual assault, criminal sexual

1 assault, armed robbery, aggravated arson, arson,
2 aggravated kidnapping and kidnapping, aggravated battery
3 resulting in great bodily harm or permanent disability,
4 aggravated domestic battery resulting in greater bodily
5 harm or permanent disability, aggravated criminal sexual
6 abuse by a person in a position of trust or authority over
7 a child, stalking, or aggravated stalking, ~~or any offense~~
8 ~~involving the discharge of a firearm.~~

9 (4) (Blank).

10 (5) The crime for which the defendant has been
11 convicted is non-probationable.

12 (6) The sentence imposed on the defendant, whether the
13 result of a plea or a finding of guilt, renders the
14 defendant ineligible for probation.

15 (c) Notwithstanding subsection (a), the defendant may be
16 admitted into a drug court program only upon the agreement of
17 the prosecutor if:

18 (1) the defendant is charged with a Class 2 or greater
19 felony violation of:

20 (A) Section 401, 401.1, 405, or 405.2 of the
21 Illinois Controlled Substances Act;

22 (B) Section 5, 5.1, or 5.2 of the Cannabis Control
23 Act; or

24 (C) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56,
25 or 65 of the Methamphetamine Control and Community
26 Protection Act.

1 (Source: P.A. 99-480, eff. 9-9-15; 100-426, eff. 1-1-18.)

2 (730 ILCS 167/25)

3 Sec. 25. Procedure.

4 (a) ~~A The Court shall order the defendant to submit to an~~
5 ~~eligibility~~ screening and ~~an~~ assessment of the defendant shall
6 be performed as required by the Court's Policies and
7 Procedures. The assessment shall be conducted through the VA,
8 VAC, and/or the IDVA to provide information on the defendant's
9 veteran or servicemember status.

10 (b) ~~A The Court shall order the defendant to submit to an~~
11 ~~eligibility screening and~~ mental health and substance use
12 disorder ~~drug/alcohol~~ screening and assessment of the
13 defendant by the VA, VAC, or by the IDVA shall be performed as
14 required by the Court's Policies and Procedures ~~to provide~~
15 ~~assessment services for Illinois Courts.~~ The assessment shall
16 include, but is not limited to, a validated clinical
17 assessment. The assessment shall include, but not be limited
18 to, assessments of substance use, mental and behavioral health
19 needs. The assessment shall be administered by a qualified
20 clinician of the VA, VAC, or IDVA, or individuals who meet the
21 IDHS/SUPR regulations for professional staff contained in Part
22 2060 of Title 77 of the Illinois Administrative Code, or an
23 equivalent Standard in any other state where treatment may
24 take place, and used to inform any clinical treatment plans.
25 Clinical treatment plans shall be developed, in accordance

1 ~~with Illinois PSC Standards and risks assessment and be based,~~
2 in part, upon the known availability of treatment resources
3 available to the Veterans and Servicemembers Court. ~~The~~
4 ~~assessment shall also include recommendations for treatment of~~
5 ~~the conditions which are indicating a need for treatment under~~
6 ~~the monitoring of the Court and be reflective of a level of~~
7 ~~risk assessed for the individual seeking admission.~~ An
8 assessment need not be ordered if the Court finds a valid
9 screening and/or assessment related to the present charge
10 pending against the defendant has been completed within the
11 previous 60 days.

12 (c) The judge shall inform the defendant that if the
13 defendant fails to meet the conditions of the Veterans and
14 Servicemembers Court program, eligibility to participate in
15 the program may be revoked and the defendant may be sentenced
16 or the prosecution continued as provided in the Unified Code
17 of Corrections for the crime charged.

18 (d) The defendant shall execute a written agreement with
19 the Court as to his or her participation in the program and
20 shall agree to all of the terms and conditions of the program,
21 including but not limited to the possibility of sanctions or
22 incarceration for failing to abide or comply with the terms of
23 the program.

24 (e) In addition to any conditions authorized under the
25 Pretrial Services Act and Section 5-6-3 of the Unified Code of
26 Corrections, the Court may order the defendant to complete

1 substance use disorder ~~abuse~~ treatment in an outpatient,
2 inpatient, residential, or jail-based custodial treatment
3 program, order the defendant to complete mental health
4 counseling in an inpatient or outpatient basis, comply with
5 physicians' recommendation regarding medications and all
6 follow up treatment for any mental health diagnosis made by
7 the provider. Substance use treatment programs must be
8 licensed by IDPH/SUPR, or an equivalent standard in any other
9 state where treatment may take place, and use evidence-based
10 treatment. When referring participants to mental health
11 treatment programs, the court shall prioritize providers
12 certified as community mental health or behavioral health
13 centers as possible. The court shall prioritize the least
14 restrictive treatment option when ordering mental health or
15 substance use treatment for participants. The court may order
16 jail-based custodial treatment if it finds that jail-based
17 treatment is the least restrictive alternative based on
18 evidence that efforts were made to locate less restrictive
19 alternatives to secure confinement and the reasons why efforts
20 were unsuccessful in locating a less restrictive alternative
21 to jail-based custodial treatment. This treatment may include
22 ~~but is not limited to post-traumatic stress disorder,~~
23 ~~traumatic brain injury and depression.~~

24 (e-5) The veterans and servicemembers treatment court
25 shall include a regimen of graduated requirements, individual
26 and group therapy substance analysis testing, close monitoring

1 by the court, supervision of progress, restitution,
2 educational or vocational counseling as appropriate, and other
3 requirements necessary to fulfill the drug court program.
4 Program phases, therapeutic adjustments, incentives, and
5 sanctions, including the use of jail sanctions, shall be
6 administered in accordance with evidence-based practices and
7 the Illinois PSC Standards. If the defendant needs treatment
8 for an opioid use disorder or dependence, the court may not
9 prohibit the defendant from participating in and receiving
10 medication assisted treatment under the care of a physician
11 licensed in this State to practice medicine in all of its
12 branches. Veteran and servicemembers court participants may
13 not be required to refrain from using medication assisted
14 treatment as a term or condition of successful completion of
15 the drug court program.

16 (e-10) Recognizing that individuals struggling with mental
17 health, substance use and related co-occurring disorders have
18 often experienced trauma, veterans and servicemembers court
19 programs may include specialized service programs specifically
20 designed to address trauma. These specialized services may be
21 offered to defendants admitted to the mental health court
22 program. Judicial circuits establishing these specialized
23 programs shall partner with advocates, survivors, and service
24 providers in the development of the programs. Trauma-informed
25 services and programming should be operated in accordance with
26 evidence-based practices as outlined by the Substance Abuse

1 and Mental Health Service Administration's National Center for
2 Trauma Informed Care (SAMHSA).

3 (f) The Court may establish a mentorship program that
4 provides access and support to program participants by peer
5 recovery coaches. Courts shall be responsible to administer
6 the mentorship program with the support of volunteer veterans
7 and local veteran service organizations, including a VAC. ~~Peer~~
8 ~~recovery coaches shall be trained and certified by the Court~~
9 ~~prior to being assigned to participants in the program.~~

10 (Source: P.A. 99-314, eff. 8-7-15; 99-819, eff. 8-15-16.)

11 (730 ILCS 167/30)

12 Sec. 30. Mental health and substance use disorder ~~abuse~~
13 treatment.

14 (a) The Veterans and Servicemembers Court program may
15 maintain a network of substance use disorder ~~abuse~~ treatment
16 programs representing a continuum of graduated substance use
17 disorder ~~abuse~~ treatment options commensurate with the needs
18 of defendants; these shall include programs with the VA, IDVA,
19 a VAC, the State of Illinois and community-based programs
20 supported and sanctioned by either or both.

21 (b) Any substance use ~~abuse~~ treatment program to which
22 defendants are referred must be licensed by IDHS/SUPR, or an
23 equivalent standard in any other state where treatment may
24 take place, use evidence-based treatment, and deliver all
25 services in accordance with the regulations contained ~~meet all~~

1 ~~of the rules and governing programs~~ in Parts 2030 and 2060 of
2 Title 77 of the Illinois Administrative Code, or an equivalent
3 standard in any other state where treatment may take place.

4 (c) The Veterans and Servicemembers Court program may, in
5 its discretion, employ additional services or interventions,
6 as it deems necessary on a case by case basis.

7 (d) The Veterans and Servicemembers Court program may
8 maintain or collaborate with a network of mental health
9 treatment programs and, if it is a co-occurring mental health
10 and substance use disorder ~~abuse~~ court program, a network of
11 substance use disorder ~~abuse~~ treatment programs representing a
12 continuum of treatment options commensurate with the needs of
13 the defendant and available resources including programs with
14 the VA, the IDVA, a VAC, and the State of Illinois. When not
15 using mental health treatment or services available through
16 the VA, IDVA or VAC, partnerships with providers certified as
17 community mental health or behavioral health centers shall be
18 prioritized as possible.

19 (Source: P.A. 99-819, eff. 8-15-16.)

20 (730 ILCS 167/35)

21 Sec. 35. Violation; termination; discharge.

22 (a) If the Court finds from the evidence presented
23 including but not limited to the reports or proffers of proof
24 from the Veterans and Servicemembers Court professionals that:

25 (1) the defendant is not complying with the

1 requirements of the treatment program performing
2 satisfactorily in the assigned program;

3 (2) (blank); ~~the defendant is not benefitting from~~
4 ~~education, treatment, or rehabilitation;~~

5 (3) the defendant has engaged in criminal conduct
6 rendering him or her unsuitable for the program; or

7 (4) the defendant has otherwise violated the terms and
8 conditions of the program ~~or his or her sentence or is for~~
9 ~~any reason unable to participate;~~ the Court may impose
10 reasonable sanctions under prior written agreement of the
11 defendant, including but not limited to imprisonment or
12 dismissal of the defendant from the program and the Court
13 may reinstate criminal proceedings against him or her or
14 proceed under Section 5-6-4 of the Unified Code of
15 Corrections for a violation of probation, conditional
16 discharge, or supervision hearing. Based on the evidence
17 presented, the court shall determine whether the defendant
18 has violated the conditions of the program and whether the
19 defendant should be dismissed from the program, or
20 whether, pursuant to the court's Policies and Procedures,
21 some other alternative may be appropriate in the interests
22 of the defendant and the public.

23 (a-5) A defendant who is assigned to a substance use
24 disorder treatment program under this Act for an opioid use
25 disorder is not in violation of the terms or conditions of the
26 program on the basis of his or her participation in medication

1 assisted treatment under the care of a physician licensed to
2 practice medicine in all of its branches.

3 (a-10) A defendant may voluntarily withdraw from the drug
4 court program in accordance with the drug court program's
5 policies and procedures. Prior to allowing the participant to
6 withdraw, the judge shall:

7 (i) ensure that the participant has the right to
8 consult with counsel prior to withdrawal;

9 (ii) determine in open court that the withdrawal is
10 made voluntarily and knowingly; and

11 (iii) admonish the participant in open court as to the
12 consequences, actual or potential, which can result from
13 withdrawal.

14 Upon withdrawal, the criminal proceedings may be
15 reinstated against the defendant or proceedings under Section
16 5-6-4 of the Unified Code of Corrections for a violation of
17 probation, conditional discharge, or supervision hearing may
18 be initiated.

19 (b) Upon successful completion of the terms and conditions
20 of the program, the Court may dismiss the original charges
21 against the defendant or successfully terminate the
22 defendant's sentence or otherwise discharge him or her from
23 any further proceedings against the defendant ~~him or her~~ in
24 the original prosecution.

25 (c) Upon successful completion of the terms and conditions
26 of the program, any State's Attorney in the county of

1 conviction may move to vacate any convictions eligible for
2 sealing under the Criminal Identification Act. Defendants may
3 immediately file petitions to expunge vacated convictions and
4 the associated underlying records per the Criminal
5 Identification Act. In cases where the State's Attorney moves
6 to vacate a conviction, the State's Attorney may not object to
7 expungement of that conviction or the underlying record.

8 (d) Veterans and servicemembers court programs may
9 maintain or collaborate with a network of legal aid
10 organizations that specialize in conviction relief to support
11 participants navigating the expungement and sealing process.

12 (Source: P.A. 96-924, eff. 6-14-10.)

13 (730 ILCS 167/40 new)

14 Sec. 40. Education for judges. A judge assigned to preside
15 over a PSC should have experience and training and continuing
16 education in topics, including, but not limited to: (1)
17 criminal law; (2) behavioral health; (3) confidentiality; (4)
18 ethics; (5) evidence-based practices; (6) substance use
19 disorders; (7) mental illness; (8) co-occurring disorders; and
20 (9) presiding over various types of PSCs.

21 (730 ILCS 167/45 new)

22 Sec. 45. Education seminars for Veterans and
23 Servicemembers Court prosecutors. Subject to appropriation,
24 the Office of the State's Attorneys Appellate Prosecutor shall

1 conduct mandatory education seminars on the subjects of
2 substance use disorders, addiction and mental health, for all
3 Veterans and Servicemembers Court prosecutors throughout the
4 State to ensure that the PSC maintains fidelity to the PSC
5 model. Topics include, but are not limited to, evidence-based
6 screening, assessment and treatment practices, target
7 population, substance use disorders, mental illness,
8 disability, co-occurring disorders, trauma, confidentiality,
9 criminogenic risks and needs, incentives and sanctions, court
10 processes, limited English proficiency and team dynamics.

11 (730 ILCS 167/50 new)

12 Sec. 50. Education seminars for public defenders. Subject
13 to appropriation, the Office of the State Appellate Defender
14 shall conduct mandatory education seminars for all public
15 defenders and assistant public defenders practicing in
16 Veterans and Servicemembers Court courts throughout the State,
17 to ensure that the PSC maintains fidelity to the PSC model.
18 Topics include, but are not limited to, evidence-based
19 screening, assessment and training practices, target
20 population, substance use disorders, mental illness,
21 disability, co-occurring disorders, trauma, confidentiality,
22 criminogenic risks and needs, incentives and sanctions, court
23 processes, limited English proficiency and team dynamics.

24 Section 15. The Mental Health Court Treatment Act is

1 amended by changing Sections 5, 10, 15, 20, 25, 30, 35 and by
2 adding Sections 45, 50, and 55 as follows:

3 (730 ILCS 168/5)

4 Sec. 5. Purposes. The General Assembly recognizes that
5 individuals with diagnosable mental illness may come into
6 contact with the criminal justice system and be charged with
7 felony or misdemeanor offenses. ~~a large percentage of criminal~~
8 ~~defendants have a diagnosable mental illness and that mental~~
9 ~~illnesses have a dramatic effect on the criminal justice~~
10 ~~system in the State of Illinois.~~ The General Assembly also
11 recognizes that mental illness and substance use disorders
12 ~~abuse problems~~ co-occur in a substantial percentage of
13 criminal defendants. There is a critical need for the a
14 criminal justice system to recognize individuals struggling
15 with these issues, provide alternatives to incarceration to
16 address mental illness, and provide appropriate access to
17 treatment and support to such persons. ~~program that will~~
18 ~~reduce the number of persons with mental illnesses and with~~
19 ~~co-occurring mental illness and substance abuse problems in~~
20 ~~the criminal justice system, reduce recidivism among persons~~
21 ~~with mental illness and with co-occurring mental illness and~~
22 ~~substance abuse problems, provide appropriate treatment to~~
23 ~~persons with mental illnesses and co-occurring mental illness~~
24 ~~and substance abuse problems and reduce the incidence of~~
25 ~~crimes committed as a result of mental illnesses or~~

1 ~~co-occurring mental illness and substance abuse problems.~~ It
2 is the intent of the General Assembly to create specialized
3 mental health courts, in accordance with evidence-based
4 practices and Illinois Supreme Court Standards for addressing
5 substance use and co-occurring disorders with the necessary
6 flexibility to meet the needs for an array of services and
7 supports among participants in mental health court programs
8 ~~problems of criminal defendants with mental illnesses and~~
9 ~~co-occurring mental illness and substance abuse problems~~ in
10 the State of Illinois.

11 (Source: P.A. 95-606, eff. 6-1-08.)

12 (730 ILCS 168/10)

13 Sec. 10. Definitions. As used in this Act:

14 "Mental health court", "mental health court program",
15 "court", or "program" means a specialty designated court,
16 court calendar, or docket facilitating intensive therapeutic
17 treatment to monitor and assist participants with structured
18 judicial intervention process for mental illness. Mental
19 health court programs are non-adversarial in nature and bring
20 ~~health treatment of eligible defendants that brings~~ together
21 mental health professionals, local social programs in
22 accordance with the nationally recommended essential elements
23 of a mental health court and Illinois Supreme Court
24 Problem-Solving Standards. Common features of mental health
25 court programs include, but are not limited to, a designated

1 judge and staff; specialized intake and screening procedures;
2 coordinated treatment procedures administered by a trained,
3 multidisciplinary professional team; close evaluation of
4 participants, including continued assessments and modification
5 of the court requirements and use of sanctions, incentives and
6 therapeutic adjustments to address behavior; frequent judicial
7 interaction with participants; less formal court process and
8 procedures; voluntary participation; and a low treatment
9 staff- to-client ratio, and intensive judicial monitoring.

10 "Mental health court professional" means a member of the
11 mental health court team, including but not limited to a
12 judge, prosecutor, defense attorney, probation officer,
13 coordinator, treatment provider, or peer recovery coach.

14 "Pre-adjudicatory mental health court program" means a
15 program that allows the defendant, with their agreement and
16 the consent of the prosecution, to enter the drug court
17 program before plea, conviction, or disposition ~~expedite the~~
18 ~~defendant's criminal case before conviction or before filing~~
19 ~~of a criminal case~~ and requires successful completion of the
20 mental health court program as part of the agreement.

21 "Post-adjudicatory mental health court program" means a
22 program that allows an individual who ~~in which the defendant~~
23 has admitted guilt or has been found guilty and agrees, along
24 with the prosecution, to enter a mental health court program
25 as part of the defendant's sentence.

26 "Combination mental health court program" means a mental

1 health court program that includes a pre-adjudicatory mental
2 health court program and a post-adjudicatory mental health
3 court program.

4 "Co-occurring mental health and substance use ~~abuse~~ court
5 program" means a program that includes persons with
6 co-occurring mental illness and substance use disorder ~~abuse~~
7 ~~problems~~. Such programs shall include professionals with
8 training and experience in treating persons with substance use
9 disorders ~~abuse problems~~ and mental illness.

10 "Problem-Solving Courts (PSC) Standards" means the
11 statewide standards adopted by the Illinois Supreme Court
12 which set forth the minimum requirements for the planning,
13 establishment, certification, operation and evaluation of all
14 problem-solving courts in Illinois.

15 "Certification" means the process by which a
16 problem-solving court obtains approval from the Supreme Court
17 to operate in accordance with the Problem-Solving Court
18 Standards.

19 "Clinical treatment plan" means an evidence-based,
20 comprehensive, and individualized plan that is developed by a
21 qualified professional and defines the scope of treatment
22 services to be delivered by a treatment provider.

23 "Validated clinical assessment" may include assessment
24 tools required by public or private insurance.

25 "Peer recovery coach" means a mentor assigned to a
26 defendant during participation in a mental health treatment

1 court program who has been trained by the court, a service
2 provider used by the court for substance use or mental health
3 treatment, a local service provider with established peer
4 recovery coach or mentor programs not otherwise used by the
5 court for treatment, or be a Certified Recovery Support
6 Specialist (CRSS) certified by the Illinois Certification
7 Board. Peer recovery coaches should be individuals with lived
8 experience of the issues problem-solving courts seek to
9 address, including, but not limited to, substance use
10 disorders, mental health, and co-occurring disorders, and
11 involvement with the criminal justice system. Peer recovery
12 coaches shall guide and mentor the participant to successfully
13 complete assigned requirements and work to help facilitate
14 participants' independence for continued success once the
15 supports of the court are no longer available to them.

16 "Community Mental Health Center" means an entity licensed
17 by the Illinois Department of Public Health as a Community
18 Mental Health Center in accordance with the conditions of
19 participation for Community Mental Health Centers established
20 by the Center for Medicare & Medicaid Services. Community
21 Mental Health Centers means an entity that provides outpatient
22 services, including specialized outpatient services for
23 individuals who are chronically mentally ill.

24 "Community Behavioral Health Center" means a physical site
25 where behavioral healthcare services are provided in
26 accordance with the Community Behavioral Health Center

1 Infrastructure Act.

2 (Source: P.A. 97-946, eff. 8-13-12.)

3 (730 ILCS 168/15)

4 Sec. 15. Authorization. The Chief Judge of each judicial
5 circuit may establish a mental health court program in
6 compliance with the Problem-Solving Court Standards. At the
7 discretion of the Chief Judge, the mental health court program
8 may be operated in one or more counties of the circuit and
9 allow the defendants from all counties within the circuit to
10 participate. Mental Health Court programs must be certified by
11 the Supreme Court., including the format under which it
12 operates under this Act.

13 (b)Whenever the county boards of 2 or more counties within
14 the same judicial circuit shall determine that a single mental
15 health court program would best serve those counties, the
16 county board of each such county shall adopt a resolution to
17 the effect that there shall be a single mental health court
18 program serving those counties, and shall provide a copy of
19 the resolution to the Chief Judge of the judicial circuit.
20 Upon receipt of those resolutions, the Chief Judge shall
21 establish or, in the case of an existing mental health court
22 program, re-organize a single mental health court program to
23 serve these counties.

24 (Source: P.A. 95-606, eff. 6-1-08.)

1 (730 ILCS 168/20)

2 Sec. 20. Eligibility.

3 (a) A defendant, ~~who is eligible for probation based on~~
4 ~~the nature of the crime convicted of and in consideration of~~
5 ~~his or her criminal background, if any,~~ may be admitted into a
6 mental health court program only upon the agreement of the
7 defendant and with the approval of the court. A defendant
8 agrees to be admitted when a Written Consent to Participate is
9 provided to the Court in open court and the defendant
10 acknowledges understanding its contents.

11 (a-5) Each mental health court shall have a target
12 population defined in its written Policies and Procedures. The
13 Policies and Procedures shall define that court's eligibility
14 and exclusionary criteria.

15 (b) A defendant shall be excluded from a mental health
16 court program if any one of the following applies:

17 (1) The crime is a crime of violence as set forth in
18 clause (3) of this subsection (b).

19 (2) The defendant does not demonstrate a willingness
20 to participate in a treatment program.

21 (3) The defendant has been convicted of a crime of
22 violence within the past 5 ~~10~~ years excluding
23 incarceration time. As used in this paragraph (3), "crime
24 of violence" means: first degree murder, second degree
25 murder, predatory criminal sexual assault of a child,
26 aggravated criminal sexual assault, criminal sexual

1 assault, armed robbery, aggravated arson, arson,
2 aggravated kidnapping, kidnapping, aggravated battery
3 resulting in great bodily harm or permanent disability,
4 aggravated domestic battery resulting in great bodily harm
5 or permanent disability, aggravated criminal sexual abuse
6 by a person in a position of trust or authority over a
7 child, stalking, or aggravated stalking, ~~or any offense~~
8 ~~involving the discharge of a firearm.~~

9 (4) (Blank).

10 (5) The crime for which the defendant has been
11 convicted is non-probationable.

12 (6) The sentence imposed on the defendant, whether the
13 result of a plea or a finding of guilt, renders the
14 defendant ineligible for probation.

15 (c) Notwithstanding subsection (a), the defendant may be
16 admitted into a mental health court program only upon
17 agreement of the prosecutor if:

18 (1) the defendant is charged with a Class 2 or greater
19 felony violation of:

20 (A) Section 401, 401.1, 405, or 405.2 of the
21 Illinois Controlled Substances Act;

22 (B) Section 5, 5.1, or 5.2 of the Cannabis Control
23 Act; or

24 (C) Section 15, 20, 25, 30, 35, 40, 45, 50, 55, 56,
25 or 65 of the Methamphetamine Control and Community
26 Protection Act.

1 ~~A defendant charged with prostitution under Section 11-14 of~~
2 ~~the Criminal Code of 2012 may be admitted into a mental health~~
3 ~~court program, if available in the jurisdiction and provided~~
4 ~~that the requirements in subsections (a) and (b) are~~
5 ~~satisfied. Mental health court programs may include~~
6 ~~specialized service programs specifically designed to address~~
7 ~~the trauma associated with prostitution and human trafficking,~~
8 ~~and may offer those specialized services to defendants~~
9 ~~admitted to the mental health court program. Judicial circuits~~
10 ~~establishing these specialized programs shall partner with~~
11 ~~prostitution and human trafficking advocates, survivors, and~~
12 ~~service providers in the development of the programs.~~

13 (Source: P.A. 100-426, eff. 1-1-18.)

14 (730 ILCS 168/25)

15 Sec. 25. Procedure.

16 (a) ~~A~~ The court shall require an eligibility screening and
17 needs an assessment of the defendant shall be performed as
18 required by the Court's Policies and Procedures. The
19 assessment shall include a validated clinical assessment. The
20 clinical assessment shall include, but not be limited to,
21 assessments of substance use disorder, mental and behavioral
22 health needs. The clinical assessment shall be administered by
23 a qualified clinician and used to inform any clinical
24 treatment plans. Clinical treatment plans shall be developed,
25 in part, upon the known availability of treatment resources

1 available. Assessments for substance use disorder shall be
2 conducted in accordance with the Illinois Department of Human
3 Services/Division of Substance Use Prevention and Recovery
4 (IDHS/SUPR) regulations contained in Part 2060 of Title 77 of
5 the Illinois Administrative Code or an equivalent standard in
6 any other state where treatment may take place, and conducted
7 by individuals who meet the IDHS/SUPR regulations for
8 professional staff also contained within that Code, or an
9 equivalent standard in any other state where treatment may
10 take place. The assessments shall be used to inform any
11 Clinical Treatment Plans. Clinical Treatment Plans shall be
12 developed in accordance with Illinois PSC Standards and, in
13 part, upon the known availability of treatment resources
14 available. An assessment need not be ordered if the court
15 finds a valid assessment related to the present charge pending
16 against the defendant has been completed within the previous
17 60 days.

18 (b) The judge shall inform the defendant that if the
19 defendant fails to meet the requirements of the mental health
20 court program, eligibility to participate in the program may
21 be revoked and the defendant may be sentenced or the
22 prosecution continued, as provided in the Unified Code of
23 Corrections, for the crime charged.

24 (c) The defendant shall execute a written agreement as to
25 his or her participation in the program and shall agree to all
26 of the terms and conditions of the program, including but not

1 limited to the possibility of sanctions or incarceration for
2 failing to abide or comply with the terms of the program.

3 (d) In addition to any conditions authorized under the
4 Pretrial Services Act and Section 5-6-3 of the Unified Code of
5 Corrections, the court may order the defendant to complete
6 mental health or substance use disorder ~~abuse~~ treatment in an
7 outpatient, inpatient, residential, or jail-based custodial
8 treatment program, order the defendant to complete mental
9 health counseling in an inpatient or outpatient basis, comply
10 with physicians' recommendation regarding medications and all
11 follow up treatment for any mental health diagnosis made by
12 the provider. Substance use disorder treatment programs must
13 be licensed by IDHS/SUPR, or an equivalent standard in any
14 other state where treatment may take place and use
15 evidence-based treatment. When referring participants to
16 mental health treatment programs, the court shall prioritize
17 providers certified as community mental health or behavioral
18 health centers as possible. The court shall prioritize the
19 least restrictive treatment option when ordering mental health
20 or substance use treatment for participants. The court may
21 order jail-based custodial treatment if it finds that
22 jail-based treatment is the least restrictive alternative
23 based on evidence that efforts were made to locate less
24 restrictive alternatives to secure confinement and the reasons
25 why efforts were unsuccessful in locating a less restrictive
26 alternative to jail-based custodial treatment. Any period of

1 time a defendant shall serve in a jail-based treatment program
2 may not be reduced by the accumulation of good time or other
3 credits and may be for a period of up to 120 days.

4 (e) The mental health court program may include a regimen
5 of graduated requirements including ~~and rewards and sanctions,~~
6 ~~including but not limited to: fines, fees, costs, restitution,~~
7 ~~incarceration of up to 180 days,~~ individual and group therapy,
8 medication, substance ~~drug~~ analysis testing, close monitoring
9 by the court, ~~and~~ supervision of progress, restitution,
10 educational or vocational counseling as appropriate and other
11 requirements necessary to fulfill the mental health court
12 program. Program phases, therapeutic adjustments, incentives,
13 and sanctions, including the use of jail sanctions, shall be
14 administered in accordance with evidence-based practices and
15 the Illinois PSC Standards. If the defendant needs treatment
16 for an opioid use disorder or dependence, the court may not
17 prohibit the defendant from participating in and receiving
18 medication assisted treatment under the care of a physician
19 licensed in this State to practice medicine in all of its
20 branches. Mental health court participants may not be required
21 to refrain from using medication assisted treatment as a term
22 or condition of successful completion of the mental health
23 court program.

24 (f) The Mental Health Court program may maintain or
25 collaborate with a network of mental health treatment programs
26 and, if it is a co-occurring mental health and substance use

1 court program, a network of substance use treatment programs
2 representing a continuum of treatment options commensurate
3 with the needs of the defendant and available resources
4 including programs with the State of Illinois.

5 (g) Recognizing that individuals struggling with mental
6 health, addiction and related co-occurring disorders have
7 often experienced trauma, mental health court programs may
8 include specialized service programs specifically designed to
9 address trauma. These specialized services may be offered to
10 defendants admitted to the mental health court program.
11 Judicial circuits establishing these specialized programs
12 shall partner with service providers in the development of the
13 programs. Trauma-informed services and programming should be
14 operated in accordance with evidence-based best practices as
15 outlined by the Substance Abuse and Mental Health Service
16 Administration's National Center for Trauma Informed Care
17 (SAMHSA).

18 (h) The Court may establish a mentorship program that
19 provides access and support to program participants by peer
20 recovery coaches. Courts shall be responsible to administer
21 the mentorship program with the support of mentors and local
22 mental health and substance use disorder treatment
23 organizations.

24 (Source: P.A. 95-606, eff. 6-1-08.)

1 Sec. 30. Mental health and substance use ~~abuse~~ treatment.

2 (a) The mental health court program may maintain or
3 collaborate with a network of mental health treatment programs
4 and, if it is a co-occurring mental health and substance use
5 disorder ~~abuse~~ court program, a network of substance use ~~abuse~~
6 treatment programs representing a continuum of treatment
7 options commensurate with the needs of defendants and
8 available resources.

9 (b) Any substance use disorder ~~abuse~~ treatment program to
10 which defendants are referred must be licensed by the State of
11 Illinois as SUPR providers, use evidence-based treatment, and
12 meet all of the rules and governing programs in Parts 2030 and
13 2060 of Title 77 of the Illinois Administrative Code.

14 (c) The mental health court program may, at its
15 discretion, employ additional services or interventions, as it
16 deems necessary on a case by case basis.

17 (Source: P.A. 95-606, eff. 6-1-08.)

18 (730 ILCS 168/35)

19 Sec. 35. Violation; termination; discharge.

20 (a) If the court finds from the evidence presented,
21 including but not limited to the reports or proffers of proof
22 from the mental health court professionals that:

23 (1) the defendant is not complying with the
24 requirements of the treatment program ~~performing~~
25 ~~satisfactorily in the assigned program;~~

1 (2) (blank); ~~the defendant is not benefiting from~~
2 ~~education, treatment, or rehabilitation;~~

3 (3) the defendant has engaged in criminal conduct
4 rendering him or her unsuitable for the program; or

5 (4) the defendant has otherwise violated the terms and
6 conditions of the program ~~or his or her sentence or is for~~
7 ~~any reason unable to participate;~~

8 the court may impose reasonable sanctions under prior written
9 agreement of the defendant, including but not limited to
10 imprisonment or dismissal of the defendant from the program;
11 and the court may reinstate criminal proceedings against the
12 defendant ~~him or her~~ or proceed under Section 5-6-4 of the
13 Unified Code of Corrections for a violation of probation,
14 conditional discharge, or supervision hearing. Based on the
15 evidence presented, the court shall determine whether the
16 defendant has violated the conditions of the program and
17 whether the defendant should be dismissed from the program or
18 whether, pursuant to the court's Policies and Procedures, some
19 other alternative may be appropriate in the interests of the
20 defendant and the public.

21 (a-5) A defendant may voluntarily withdraw from the mental
22 health court program in accordance with the mental health
23 court program's Policies and Procedures. Prior to allowing the
24 participant to withdraw, the judge shall:

25 (i) ensure that the participant has the right to
26 consult with counsel prior to withdrawal;

1 (ii) determine in open court that the withdrawal is
2 made voluntarily and knowingly; and

3 (iii) admonish the participant in open court as to the
4 consequences, actual or potential, which can result from
5 withdrawal.

6 Upon withdrawal, the criminal proceedings may be
7 reinstated against the defendant or proceedings under Section
8 5-6-4 of the Unified Code of Corrections for a violation of
9 probation, conditional discharge, or supervision hearing may
10 be initiated.

11 (a-10) No defendant may be dismissed from the program
12 unless, prior to such dismissal, the defendant is informed in
13 writing: (i) of the reason or reasons for the dismissal; (ii)
14 the evidentiary basis supporting the reason or reasons for the
15 dismissal; (iii) that the defendant has a right to a hearing at
16 which he or she may present evidence supporting his or her
17 continuation in the program. ~~Based upon the evidence~~
18 ~~presented, the court shall determine whether the defendant has~~
19 ~~violated the conditions of the program and whether the~~
20 ~~defendant should be dismissed from the program or whether some~~
21 ~~other alternative may be appropriate in the interests of the~~
22 ~~defendant and the public.~~

23 (b) Upon successful completion of the terms and conditions
24 of the program, the court may dismiss the original charges
25 against the defendant or successfully terminate the
26 defendant's sentence or otherwise discharge him or her from

1 the program or from any further proceedings against him or her
2 in the original prosecution.

3 (c) Upon successful completion of the terms and conditions
4 of the program, any State's Attorney in the county of
5 conviction may move to vacate any convictions eligible for
6 sealing under the Criminal Identification Act. Defendants may
7 immediately file petitions to expunge vacated convictions and
8 the associated underlying records per the Criminal
9 Identification Act. In cases where the State's Attorney moves
10 to vacate a conviction, the State's Attorney may not object to
11 expungement of that conviction or the underlying record.

12 (d) The mental health court program may maintain or
13 collaborate with a network of legal aid organizations that
14 specialize in conviction relief to support participants
15 navigating the expungement and sealing process.

16 (Source: P.A. 95-606, eff. 6-1-08.)

17 (730 ILCS 168/45 new)

18 Sec. 45. Education seminars for judges. A judge assigned
19 to preside over a PSC should have experience and training and
20 continuing education in topics including, but not limited to:
21 (1) criminal law; (2) behavioral health; (3) confidentiality;
22 (4) ethics; (5) evidence-based practices; (6) co-occurring
23 disorders; (7) mental illness; (8) co-occurring disorders; and
24 (9) presiding over various types of PSCs.

1 (730 ILCS 168/50 new)

2 Sec. 50. Education seminars for Mental Health Court
3 prosecutors. Subject to appropriation, the Office of the
4 State's Attorneys Appellate Prosecutor shall conduct mandatory
5 education seminars for all prosecutors serving in Mental
6 Health courts throughout the State to ensure that the PSC
7 maintains fidelity to the PSC model. Topics include, but are
8 not limited to, evidence-based screening, assessment and
9 treatment practices, target population, substance use
10 disorders, mental illness, disability, co- occurring
11 disorders, trauma, confidentiality, criminogenic risks and
12 needs, incentives and sanctions, court processes, limited
13 English proficiency and team dynamics.

14 (730 ILCS 168/55 new)

15 Sec. 55. Education seminars for Mental Health Court public
16 defenders. Subject to appropriation, the Office of the State
17 Appellate Defender shall conduct mandatory education seminars
18 on the subjects of substance use disorder, addiction, and
19 mental health, for all public defenders and assistant public
20 defenders practicing in Mental Health courts throughout the
21 State to ensure that the PSC maintains fidelity to the PSC
22 model. Topics include, but are not limited to, evidence-based
23 screening, assessment and treatment practices, target
24 population, substance use disorders, mental illness,
25 disability, co-occurring disorders, trauma, confidentiality,

1 criminogenic risks and needs, incentives and sanctions, court
2 processes, limited English proficiency and team dynamics.